

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Liu

February 22, 2005

An act to amend Section 21641 of the Business and Professions Code, to amend Section 12101 of the Health and Safety Code, to amend Sections 171b, 11106, 11108, 11108.3, 12001, 12021, 12021.3, 12026.2, 12028.5, 12035, 12036, 12070, 12072, 12076, 12078, 12082, 12086, 12131, 12132, and 12305 of, to amend, renumber, and add Sections 12071.1 and 12071.4 of, to add Sections 12071.2, 12071.3, 12071.5, 12071.6, and 12071.7 to, to repeal Section 12084 of, and to repeal and add Section 12071 of, the Penal Code, and to amend Section 26 of Chapter 23 of the Statutes of 1994, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Liu. Firearms.

Existing law authorizes law enforcement agencies to report certain information to the Department of Justice pertaining to a firearm when the firearm is taken into custody for safekeeping by the agency.

This bill would require the law enforcement agency to report the information to the department.

By imposing additional duties in connection with the custody of firearms upon local law enforcement entities, this bill would impose a state-mandated local program.

Existing law provides that where neither party to a firearm transaction is a licensed firearms dealer, the parties may complete the transaction through a sheriff's department, as specified.

This bill would repeal those provisions and make additional conforming technical changes consistent with the repeal. The bill would make other technical changes.

Existing law generally regulates the licensing and conduct of firearms dealers.

This bill would reorganize those provisions. The bill would require dealers to store all inventory firearms in secure storage, as specified. The bill would renumber other code sections in connection with reorganizing those provisions, and would make other conforming nonsubstantive changes.

Existing law establishes a program for determining the safety of handguns based on certain testing criteria and procedures. Existing law provides for the reinstatement of handguns on an approved roster subject to certain conditions.

This bill would specify additional criteria to be met for purposes of reinstatement.

The bill would make additional technical and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21641 of the Business and Professions
2 Code is amended to read:
3 21641. (a) The chief of police, the sheriff or, where
4 appropriate, the police commission, shall accept an application
5 for and grant a license permitting the licensee to engage in the
6 business of secondhand dealer, as defined in Section 21626, to an
7 applicant who has not been convicted of an attempt to receive
8 stolen property or any other offense involving stolen property.
9 Prior to the granting of a license, the licensing authority shall
10 submit the application to the Department of Justice. If the

1 Department of Justice does not comment on the application
2 within 30 days thereafter, the licensing authority may grant the
3 applicant a license. All forms for application and licensure, and
4 license renewal, shall be prescribed and provided by the
5 Department of Justice. A fee may be charged to the applicant as
6 specified by the Department of Justice and the local licensing
7 authority for processing the initial license application.

8 (b) For the purposes of this section, “convicted” means a plea
9 or verdict of guilty or a conviction following a plea of nolo
10 contendere.

11 (c) Notwithstanding subdivisions (a) and (b), no person shall
12 be denied a secondhand dealer’s license solely on the grounds
13 that he or she violated any provision contained in Article 4
14 (commencing with Section 21625) or Article 5 (commencing
15 with Section 21650) of this chapter, or any provision contained in
16 Chapter 2 (commencing with Section 21200) of Division 8 of the
17 Financial Code, unless the violation demonstrates a pattern of
18 conduct.

19 (d) Any person licensed as a firearms dealer pursuant to
20 Section 12071 of the Penal Code, who is conducting business at
21 gun shows or events pursuant to Section 12071.1 of the Penal
22 Code, and who has a valid secondhand dealer license granted by
23 the appropriate local authorities in the jurisdiction where the
24 firearms dealer license has been granted, shall be authorized to
25 conduct business as a secondhand dealer at any gun show or
26 event, as defined in Section 478.100 of Title 27 of the Code of
27 Federal Regulations, or its successor, without regard to the
28 jurisdiction within this state that issued the secondhand dealer
29 license pursuant to subdivision (a) of this section. No additional
30 fees or separate secondhand dealer license shall be required by
31 any agency having jurisdiction over the locality where the gun
32 show or event is conducted. However, the person shall otherwise
33 be subject to, and comply with, the requirements of this article
34 when he or she acts as a secondhand dealer at the gun show or
35 event to the same extent as if he or she were licensed as a
36 secondhand dealer in the jurisdiction in which the gun show or
37 event is being conducted.

38 SEC. 2. Section 12101 of the Health and Safety Code is
39 amended to read:

1 12101. (a) No person shall do any one of the following
2 without first having made application for and received a permit
3 in accordance with this section:

- 4 (1) Manufacture explosives.
- 5 (2) Sell, furnish, or give away explosives.
- 6 (3) Receive, store, or possess explosives.
- 7 (4) Transport explosives.
- 8 (5) Use explosives.
- 9 (6) Operate a terminal for handling explosives.
- 10 (7) Park or leave standing any vehicle carrying explosives,
11 except when parked or left standing in or at a safe stopping place
12 designated as such by the Department of the California Highway
13 Patrol under Division 14 (commencing with Section 31600) of
14 the Vehicle Code.

15 (b) Application for a permit shall be made to the appropriate
16 issuing authority.

17 (c) (1) A permit shall be obtained from the issuing authority
18 having the responsibility in the area where the activity, as
19 specified in subdivision (a), is to be conducted.

20 (2) If the person holding a valid permit for the use or storage
21 of explosives desires to purchase or receive explosives in a
22 jurisdiction other than that of intended use or storage, the person
23 shall first present the permit to the issuing authority in the
24 jurisdiction of purchase or receipt for endorsement. The issuing
25 authority may include any reasonable restrictions or conditions
26 which the authority finds necessary for the prevention of fire and
27 explosion, the preservation of life, safety, or the control and
28 security of explosives within the authority's jurisdiction. If, for
29 any reason, the issuing authority refuses to endorse the permit
30 previously issued in the area of intended use or storage, the
31 authority shall immediately notify both the issuing authority who
32 issued the permit and the Department of Justice of the fact of the
33 refusal and the reasons for the refusal.

34 (3) Every person who sells, gives away, delivers, or otherwise
35 disposes of explosives to another person shall first be satisfied
36 that the person receiving the explosives has a permit valid for
37 that purpose. When the permit to receive explosives indicates
38 that the intended storage or use of the explosives is other than in
39 that area in which the permittee receives the explosives, the
40 person who sells, gives away, delivers, or otherwise disposes of

1 the explosives shall insure that the permit has been properly
2 endorsed by a local issuing authority and, further, shall
3 immediately send a copy of the record of sale to the issuing
4 authority who originally issued the permit in the area of intended
5 storage or use. The issuing authority in the area in which the
6 explosives are received or sold shall not issue a permit for the
7 possession, use, or storage of explosives in an area not within the
8 authority's jurisdiction.

9 (d) In the event any person desires to receive explosives for
10 use in an area outside of this state, a permit to receive the
11 explosives shall be obtained from the State Fire Marshal.

12 (e) A permit may include any restrictions or conditions which
13 the issuing authority finds necessary for the prevention of fire
14 and explosion, the preservation of life, safety, or the control and
15 security of explosives.

16 (f) A permit shall remain valid only until the time when the act
17 or acts authorized by the permit are performed, but in no event
18 shall the permit remain valid for a period longer than one year
19 from the date of issuance of the permit.

20 (g) Any valid permit which authorizes the performance of any
21 act shall not constitute authorization for the performance of any
22 act not stipulated in the permit.

23 (h) An issuing authority shall not issue a permit authorizing
24 the transportation of explosives pursuant to this section if the
25 display of placards for that transportation is required by Section
26 27903 of the Vehicle Code, unless the driver possesses a license
27 for the transportation of hazardous materials issued pursuant to
28 Division 14.1 (commencing with Section 32000) of the Vehicle
29 Code, or the explosives are a hazardous waste or extremely
30 hazardous waste, as defined in Sections 25117 and 25115 of the
31 Health and Safety Code, and the transporter is currently
32 registered as a hazardous waste hauler pursuant to Section 25163
33 of the Health and Safety Code.

34 (i) An issuing authority shall not issue a permit pursuant to
35 this section authorizing the handling or storage of division 1.1,
36 1.2, or 1.3 explosives in a building, unless the building has
37 caution placards which meet the standards established pursuant
38 to subdivision (g) of Section 12081.

39 (j) (1) A permit shall not be issued to a person who meets any
40 of the following criteria:

1 (A) He or she has been convicted of a felony.

2 (B) He or she is addicted to a narcotic drug.

3 (C) He or she is in a class prohibited by Section 8100 or 8103
4 of the Welfare and Institutions Code or Section 12021 or 12021.1
5 of the Penal Code.

6 (2) For purposes of determining whether a person meets any of
7 the criteria set forth in this subdivision, the issuing authority shall
8 obtain two sets of fingerprints on prescribed cards from all
9 persons applying for a permit under this section and shall submit
10 these cards to the Department of Justice. The Department of
11 Justice shall utilize the fingerprint cards to make inquiries both
12 within this state and to the Federal Bureau of Investigation
13 regarding the criminal history of the applicant identified on the
14 fingerprint card.

15 This paragraph does not apply to any person possessing a
16 current certificate of eligibility issued pursuant to Section 12071
17 or to any holder of a dangerous weapons permit or license issued
18 pursuant to Section 12095, 12230, 12250, 12286, or 12305 of the
19 Penal Code.

20 (k) An issuing authority shall inquire with the Department of
21 Justice for the purposes of determining whether a person who is
22 applying for a permit meets any of the criteria specified in
23 subdivision (j). The Department of Justice shall determine
24 whether a person who is applying for a permit meets any of the
25 criteria specified in subdivision (j) and shall either grant or deny
26 clearance for a permit to be issued pursuant to the determination.
27 The Department of Justice shall not disclose the contents of a
28 person's records to any person who is not authorized to receive
29 the information in order to ensure confidentiality.

30 SEC. 3. Section 171b of the Penal Code is amended to read:

31 171b. (a) Any person who brings or possesses within any
32 state or local public building or at any meeting required to be
33 open to the public pursuant to Chapter 9 (commencing with
34 Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9
35 (commencing with Section 11120) of Chapter 1 of Part 1 of
36 Division 3 of Title 2 of, the Government Code, any of the
37 following is guilty of a public offense punishable by
38 imprisonment in a county jail for not more than one year, or in
39 the state prison:

40 (1) Any firearm.

1 (2) Any deadly weapon described in Section 653k or 12020.

2 (3) Any knife with a blade length in excess of four inches, the
3 blade of which is fixed or is capable of being fixed in an
4 unguarded position by the use of one or two hands.

5 (4) Any unauthorized tear gas weapon.

6 (5) Any taser or stun gun, as defined in Section 244.5.

7 (6) Any instrument that expels a metallic projectile, such as a
8 BB or pellet, through the force of air pressure, CO₂ pressure, or
9 spring action, or any spot marker gun or paint gun.

10 (b) Subdivision (a) shall not apply to, or affect, any of the
11 following:

12 (1) A person who possesses weapons in, or transports weapons
13 into, a court of law to be used as evidence.

14 (2) (A) A duly appointed peace officer as defined in Chapter
15 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired
16 peace officer with authorization to carry concealed weapons as
17 described in subdivision (a) of Section 12027, a full-time paid
18 peace officer of another state or the federal government who is
19 carrying out official duties while in California, or any person
20 summoned by any of these officers to assist in making arrests or
21 preserving the peace while he or she is actually engaged in
22 assisting the officer.

23 (B) Notwithstanding subparagraph (A), subdivision (a) shall
24 apply to any person who brings or possesses any weapon
25 specified therein within any courtroom if he or she is a party to
26 an action pending before the court.

27 (3) A person holding a valid license to carry the firearm
28 pursuant to Article 3 (commencing with Section 12050) of
29 Chapter 1 of Title 2 of Part 4.

30 (4) A person who has permission to possess that weapon
31 granted in writing by a duly authorized official who is in charge
32 of the security of the state or local government building.

33 (5) A person who lawfully resides in, lawfully owns, or is in
34 lawful possession of, that building with respect to those portions
35 of the building that are not owned or leased by the state or local
36 government.

37 (6) A person licensed or registered in accordance with, and
38 acting within the course and scope of, Chapter 11.5 (commencing
39 with Section 7512) or Chapter 11.6 (commencing with Section
40 7590) of Division 3 of the Business and Professions Code who

1 has been hired by the owner or manager of the building if the
2 person has permission pursuant to paragraph (5).

3 (7) (A) A person who, for the purpose of sale or trade, brings
4 any weapon that may otherwise be lawfully transferred, into a
5 gun show conducted pursuant to Sections 12083.5 and 12083.7.

6 (B) A person who, for purposes of an authorized public
7 exhibition, brings any weapon that may otherwise be lawfully
8 possessed, into a gun show conducted pursuant to Sections
9 12083.5 and 12083.7.

10 (c) As used in this section, “state or local public building”
11 means a building that meets all of the following criteria:

12 (1) It is a building or part of a building owned or leased by the
13 state or local government, if state or local public employees are
14 regularly present for the purposes of performing their official
15 duties. A state or local public building includes, but is not limited
16 to, a building that contains a courtroom.

17 (2) It is not a building or facility, or a part thereof, that is
18 referred to in Section 171c, 171d, 626.9, 626.95, or 626.10 of this
19 code, or in Section 18544 of the Elections Code.

20 (3) It is a building not regularly used, and not intended to be
21 used, by state or local employees as a place of residence.

22 SEC. 4. Section 11106 of the Penal Code is amended to read:

23 11106. (a) In order to assist in the investigation of crime, the
24 prosecution of civil actions by city attorneys pursuant to
25 paragraph (3) of subdivision (c), the arrest and prosecution of
26 criminals, and the recovery of lost, stolen, or found property, the
27 Attorney General shall keep and properly file a complete record
28 of all copies of fingerprints, copies of licenses to carry firearms
29 issued pursuant to Section 12050, information reported to the
30 Department of Justice pursuant to Section 12053, dealers’
31 records of sales of firearms, reports provided pursuant to Section
32 12072 or 12078, forms provided pursuant to Section 12084 as
33 that section read prior to being repealed by the act that amended
34 this section, reports provided pursuant to Section 12071.5 that are
35 not dealers’ records of sales of firearms, and reports of stolen,
36 lost, found, pledged, or pawned property in any city or county of
37 this state, and shall, upon proper application therefor, furnish this
38 information to the officers referred to in Section 11105.

39 (b) (1) Notwithstanding subdivision (a), the Attorney General
40 shall not retain or compile any information from reports filed

1 pursuant to subdivision (a) of Section 12078 for firearms that are
2 not handguns, from forms submitted pursuant to Section 12084
3 for firearms that are not handguns as that section read prior to
4 being repealed by the act that amended this section, or from
5 dealers' records of sales for firearms that are not handguns. All
6 copies of the forms submitted, or any information received in
7 electronic form, pursuant to Section 12084 for firearms that are
8 not handguns as that section read prior to being repealed by the
9 act that amended this section, or of the dealers' records of sales
10 for firearms that are not handguns shall be destroyed within five
11 days of the clearance by the Attorney General, unless the
12 purchaser or transferor is ineligible to take possession of the
13 firearm. All copies of the reports filed, or any information
14 received in electronic form, pursuant to subdivision (a) of
15 Section 12078 for firearms that are not handguns shall be
16 destroyed within five days of the receipt by the Attorney General,
17 unless retention is necessary for use in a criminal prosecution.

18 (2) A peace officer, the Attorney General, a Department of
19 Justice employee designated by the Attorney General, or any
20 authorized local law enforcement employee shall not retain or
21 compile any information from a firearms transaction record, as
22 defined in Section 12071.5, for firearms that are not handguns
23 unless retention or compilation is necessary for use in a criminal
24 prosecution or in a proceeding to revoke a license issued
25 pursuant to Section 12071.

26 (3) A violation of this subdivision is a misdemeanor.

27 (c) (1) The Attorney General shall permanently keep and
28 properly file and maintain all information reported to the
29 Department of Justice pursuant to Sections 12071, 12072, 12078,
30 12082, and former Section 12084 or any other law, as to
31 handguns and maintain a registry thereof.

32 (2) The registry shall consist of all of the following:

33 (A) The name, address, identification of, place of birth (state
34 or country), complete telephone number, occupation, sex,
35 description, and all legal names and aliases ever used by the
36 owner or person being loaned the particular handgun as listed on
37 the information provided to the department on the Dealers'
38 Record of Sale, the Law Enforcement Firearms Transfer (LEFT),
39 as defined in former Section 12084, or reports made to the
40 department pursuant to Section 12078 or any other law.

1 (B) The name and address of, and other information about, any
2 person (whether a dealer or a private party) from whom the
3 owner acquired or the person being loaned the particular handgun
4 and when the firearm was acquired or loaned as listed on the
5 information provided to the department on the Dealers' Record
6 of Sale, the LEFT, or reports made to the department pursuant to
7 Section 12078 or any other law.

8 (C) Any waiting period exemption applicable to the
9 transaction which resulted in the owner of or the person being
10 loaned the particular handgun acquiring or being loaned that
11 firearm.

12 (D) The manufacturer's name if stamped on the firearm,
13 model name or number if stamped on the firearm, and, if
14 applicable, the serial number, other number (if more than one
15 serial number is stamped on the firearm), caliber, type of firearm,
16 if the firearm is new or used, barrel length, and color of the
17 firearm.

18 (3) Information in the registry referred to in this subdivision
19 shall, upon proper application therefor, be furnished to the
20 officers referred to in Section 11105, to a city attorney
21 prosecuting a civil action, solely for use in prosecuting that civil
22 action and not for any other purpose, or to the person listed in the
23 registry as the owner or person who is listed as being loaned the
24 particular handgun.

25 (4) If any person is listed in the registry as the owner of a
26 firearm through a Dealers' Record of Sale prior to 1979, and the
27 person listed in the registry requests by letter that the Attorney
28 General store and keep the record electronically, as well as in the
29 record's existing photographic, photostatic, or nonerasable
30 optically stored form, the Attorney General shall do so within
31 three working days of receipt of the request. The Attorney
32 General shall, in writing, and as soon as practicable, notify the
33 person requesting electronic storage of the record that the request
34 has been honored as required by this paragraph.

35 SEC. 5. Section 11108 of the Penal Code is amended to read:

36 11108. Each sheriff or police chief executive shall submit
37 descriptions of serialized property which has been reported
38 stolen, lost, found, recovered, held for safekeeping, or under
39 observation, directly into the appropriate Department of Justice

1 automated property system for firearms, stolen bicycles, stolen
2 vehicles, or other property, as the case may be.

3 Reports of stolen nonserialized property which has unique
4 characteristics or inscriptions permitting accurate identification
5 shall be sent by each sheriff or police chief executive directly to
6 the Special Services Section of the department by letter or
7 teletype.

8 SEC. 6. Section 11108.3 of the Penal Code is amended to
9 read:

10 11108.3. (a) In addition to the requirements of Section 11108
11 that apply to a local law enforcement agency's duty to report to
12 the Department of Justice the recovery of a firearm, a police or
13 sheriff's department shall, and any other law enforcement agency
14 or agent may, report to the department in a manner determined
15 by the Attorney General in consultation with the Bureau of
16 Alcohol, Tobacco, Firearms and Explosives all available
17 information necessary to identify and trace the history of all
18 recovered firearms that are illegally possessed, have been used in
19 a crime, or are suspected of having been used in a crime.

20 (b) When the department receives information from a local
21 law enforcement agency pursuant to subdivision (a), it shall
22 promptly forward this information to the National Tracing Center
23 of the federal Bureau of Alcohol, Tobacco, Firearms and
24 Explosives to the extent practicable.

25 (c) The Department of Justice shall implement an electronic
26 system by January 1, 2002, to receive comprehensive tracing
27 information from each local law enforcement agency, and to
28 forward this information to the National Tracing Center.

29 (d) In implementing this section, the Attorney General shall
30 ensure to the maximum extent practical that both of the following
31 apply:

32 (1) The information he or she provides to the federal Bureau
33 of Alcohol, Tobacco, Firearms and Explosives enables that
34 agency to trace the ownership of the firearm described in
35 subdivision (a).

36 (2) Local law enforcement agencies can report all relevant
37 information without being unduly burdened by this reporting
38 function.

39 (e) Information collected pursuant to this section shall be
40 maintained by the department for a period of not less than 10

1 years, and shall be available, under guidelines set forth by the
2 Attorney General, for academic and policy research purposes.

3 (f) The Attorney General shall have the authority to issue
4 regulations to further the purposes of this section.

5 SEC. 7. Section 12001 of the Penal Code is amended to read:

6 12001. (a) (1) As used in this title, the terms “pistol,”
7 “revolver,” and “firearm capable of being concealed upon the
8 person” shall apply to and include any device designed to be used
9 as a weapon, from which is expelled a projectile by the force of
10 any explosion, or other form of combustion, and that has a barrel
11 less than 16 inches in length. These terms also include any device
12 that has a barrel 16 inches or more in length which is designed to
13 be interchanged with a barrel less than 16 inches in length.

14 (2) As used in this title, the term “handgun” means any
15 “pistol,” “revolver,” or “firearm capable of being concealed upon
16 the person.”

17 (b) As used in this title, “firearm” means any device, designed
18 to be used as a weapon, from which is expelled through a barrel a
19 projectile by the force of any explosion or other form of
20 combustion.

21 (c) As used in Sections 12021, 12021.1, 12070, 12071,
22 12071.1, 12071.2, 12071.5, 12071.6, 12072, 12073, 12078,
23 12101, and 12801 of this code, and Sections 8100, 8101, and
24 8103 of the Welfare and Institutions Code, the term “firearm”
25 includes the frame or receiver of the weapon.

26 (d) For the purposes of Sections 12025 and 12031, the term
27 “firearm” also shall include any rocket, rocket propelled
28 projectile launcher, or similar device containing any explosive or
29 incendiary material whether or not the device is designed for
30 emergency or distress signaling purposes.

31 (e) For purposes of Sections 12070, 12071, 12071.1, 12071.2,
32 12071.3, 12071.5, 12071.6, and paragraph (8) of subdivision (a),
33 and subdivisions (b), (c), (d), and (f) of Section 12072, the term
34 “firearm” does not include an unloaded firearm that is defined as
35 an “antique firearm” in Section 921(a)(16) of Title 18 of the
36 United States Code.

37 (f) Nothing shall prevent a device defined as a “handgun,”
38 “pistol,” “revolver,” or “firearm capable of being concealed upon
39 the person” from also being found to be a short-barreled shotgun
40 or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12071.2, 12071.4, or 12072, “application to purchase” means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions

1 Code, notwithstanding the fact that the term “any firearm” may
2 be used in those sections, each firearm or the frame or receiver of
3 the same shall constitute a distinct and separate offense under
4 those sections.

5 (l) For purposes of Section 12020, a violation of that section as
6 to each firearm, weapon, or device enumerated therein shall
7 constitute a distinct and separate offense.

8 (m) Each application that requires any firearms eligibility
9 determination involving the issuance of any license, permit, or
10 certificate pursuant to this title shall include two copies of the
11 applicant’s fingerprints on forms prescribed by the Department
12 of Justice. One copy of the fingerprints may be submitted to the
13 United States Federal Bureau of Investigation.

14 (n) As used in this chapter, a “personal handgun importer”
15 means an individual who meets all of the following criteria:

16 (1) He or she is not a person licensed pursuant to Section
17 12071.

18 (2) He or she is not a licensed manufacturer of firearms
19 pursuant to Chapter 44 (commencing with Section 921) of Title
20 18 of the United States Code.

21 (3) He or she is not a licensed importer of firearms pursuant to
22 Chapter 44 (commencing with Section 921) of Title 18 of the
23 United States Code and the regulations issued pursuant thereto.

24 (4) He or she is the owner of a pistol, revolver, or other
25 firearm capable of being concealed upon the person.

26 (5) He or she acquired that pistol, revolver, or other firearm
27 capable of being concealed upon the person outside of California.

28 (6) He or she moves into this state on or after January 1, 1998,
29 as a resident of this state.

30 (7) He or she intends to possess that pistol, revolver, or other
31 firearm capable of being concealed upon the person within this
32 state on or after January 1, 1998.

33 (8) The pistol, revolver, or other firearm capable of being
34 concealed upon the person was not delivered to him or her by a
35 person licensed pursuant to Section 12071 who delivered that
36 firearm following the procedures set forth in Section 12071.2 and
37 subdivision (c) of Section 12072.

38 (9) He or she, while a resident of this state, had not previously
39 reported his or her ownership of that pistol, revolver, or other
40 firearm capable of being concealed upon the person to the

1 Department of Justice in a manner prescribed by the department
2 that included information concerning him or her and a
3 description of the firearm.

4 (10) The pistol, revolver, or other firearm capable of being
5 concealed upon the person is not a firearm that is prohibited by
6 subdivision (a) of Section 12020.

7 (11) The pistol, revolver, or other firearm capable of being
8 concealed upon the person is not an assault weapon, as defined in
9 Section 12276 or 12276.1.

10 (12) The pistol, revolver, or other firearm capable of being
11 concealed upon the person is not a machinegun, as defined in
12 Section 12200.

13 (13) The person is 18 years of age or older.

14 (o) For purposes of paragraph (6) of subdivision (n):

15 (1) Except as provided in paragraph (2), residency shall be
16 determined in the same manner as is the case for establishing
17 residency pursuant to Section 12505 of the Vehicle Code.

18 (2) In the case of members of the Armed Forces of the United
19 States, residency shall be deemed to be established when he or
20 she was discharged from active service in this state.

21 (p) As used in this code, “basic firearms safety certificate”
22 means a certificate issued by the Department of Justice pursuant
23 to Article 8 (commencing with Section 12800) of Chapter 6 of
24 Title 2 of Part 4, prior to January 1, 2003.

25 (q) As used in this code, “handgun safety certificate” means a
26 certificate issued by the Department of Justice pursuant to Article
27 8 (commencing with Section 12800) of Chapter 6 of Title 2 of
28 Part 4, as that article is operative on or after January 1, 2003.

29 (r) As used in this title, “gunsmith” means any person who is
30 licensed as a dealer pursuant to Chapter 44 (commencing with
31 Section 921) of Title 18 of the United States Code and the
32 regulations issued pursuant thereto, who is engaged primarily in
33 the business of repairing firearms, or making or fitting special
34 barrels, stocks, or trigger mechanisms to firearms, or the agent or
35 employee of that person.

36 SEC. 8. Section 12021 of the Penal Code is amended to read:

37 12021. (a) (1) Any person who has been convicted of a
38 felony under the laws of the United States, of the State of
39 California, or any other state, government, or country, or of an
40 offense enumerated in subdivision (a), (b), or (d) of Section

1 12001.6, or who is addicted to the use of any narcotic drug, who
2 owns, purchases, receives, or has in his or her possession or
3 under his or her custody or control any firearm is guilty of a
4 felony.

5 (2) Any person who has two or more convictions for violating
6 paragraph (2) of subdivision (a) of Section 417 and who owns,
7 purchases, receives, or has in his or her possession or under his
8 or her custody or control any firearm is guilty of a felony.

9 (b) Notwithstanding subdivision (a), any person who has been
10 convicted of a felony or of an offense enumerated in Section
11 12001.6, when that conviction results from certification by the
12 juvenile court for prosecution as an adult in an adult court under
13 Section 707 of the Welfare and Institutions Code, who owns or
14 has in his or her possession or under his or her custody or control
15 any firearm is guilty of a felony.

16 (c) (1) Except as provided in subdivision (a) or paragraph (2)
17 of this subdivision, any person who has been convicted of a
18 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
19 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
20 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6,
21 417, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b)
22 or (d) of Section 12034, Section 12040, subdivision (b) of
23 Section 12072, subdivision (a) of former Section 12100, Section
24 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the
25 Welfare and Institutions Code, any firearm-related offense
26 pursuant to Sections 871.5 and 1001.5 of the Welfare and
27 Institutions Code, or of the conduct punished in paragraph (3) of
28 subdivision (g) of Section 12072, and who, within 10 years of the
29 conviction, owns, purchases, receives, or has in his or her
30 possession or under his or her custody or control, any firearm is
31 guilty of a public offense, which shall be punishable by
32 imprisonment in a county jail not exceeding one year or in the
33 state prison, by a fine not exceeding one thousand dollars
34 (\$1,000), or by both that imprisonment and fine. The court, on
35 forms prescribed by the Department of Justice, shall notify the
36 department of persons subject to this subdivision. However, the
37 prohibition in this paragraph may be reduced, eliminated, or
38 conditioned as provided in paragraph (2) or (3).

39 (2) Any person employed as a peace officer described in
40 Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose

1 employment or livelihood is dependent on the ability to legally
2 possess a firearm, who is subject to the prohibition imposed by
3 this subdivision because of a conviction under Section 273.5,
4 273.6, or 646.9, may petition the court only once for relief from
5 this prohibition. The petition shall be filed with the court in
6 which the petitioner was sentenced. If possible, the matter shall
7 be heard before the same judge who sentenced the petitioner.
8 Upon filing the petition, the clerk of the court shall set the
9 hearing date and shall notify the petitioner and the prosecuting
10 attorney of the date of the hearing. Upon making each of the
11 following findings, the court may reduce or eliminate the
12 prohibition, impose conditions on reduction or elimination of the
13 prohibition, or otherwise grant relief from the prohibition as the
14 court deems appropriate:

15 (A) Finds by a preponderance of the evidence that the
16 petitioner is likely to use a firearm in a safe and lawful manner.

17 (B) Finds that the petitioner is not within a prohibited class as
18 specified in subdivision (a), (b), (d), (e), or (g) or Section
19 12021.1, and the court is not presented with any credible
20 evidence that the petitioner is a person described in Section 8100
21 or 8103 of the Welfare and Institutions Code.

22 (C) Finds that the petitioner does not have a previous
23 conviction under this subdivision no matter when the prior
24 conviction occurred.

25 In making its decision, the court shall consider the petitioner's
26 continued employment, the interest of justice, any relevant
27 evidence, and the totality of the circumstances. The court shall
28 require, as a condition of granting relief from the prohibition
29 under this section, that the petitioner agree to participate in
30 counseling as deemed appropriate by the court. Relief from the
31 prohibition shall not relieve any other person or entity from any
32 liability that might otherwise be imposed. It is the intent of the
33 Legislature that courts exercise broad discretion in fashioning
34 appropriate relief under this paragraph in cases in which relief is
35 warranted. However, nothing in this paragraph shall be construed
36 to require courts to grant relief to any particular petitioner. It is
37 the intent of the Legislature to permit persons who were
38 convicted of an offense specified in Section 273.5, 273.6, or
39 646.9 to seek relief from the prohibition imposed by this
40 subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1) may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

1 (d) (1) Any person who, as an express condition of probation,
2 is prohibited or restricted from owning, possessing, controlling,
3 receiving, or purchasing a firearm and who owns, purchases,
4 receives, or has in his or her possession or under his or her
5 custody or control, any firearm but who is not subject to
6 subdivision (a) or (c) is guilty of a public offense, which shall be
7 punishable by imprisonment in a county jail not exceeding one
8 year or in the state prison, by a fine not exceeding one thousand
9 dollars (\$1,000), or by both that imprisonment and fine. The
10 court, on forms provided by the Department of Justice, shall
11 notify the department of persons subject to this subdivision. The
12 notice shall include a copy of the order of probation and a copy
13 of any minute order or abstract reflecting the order and
14 conditions of probation.

15 (2) For any person who is subject to subdivision (a), (b), or
16 (c), the court shall, at the time judgment is imposed, provide on a
17 form supplied by the Department of Justice, a notice to the
18 defendant prohibited by this section from owning, purchasing,
19 receiving, possessing or having under his or her custody or
20 control, any firearm. The notice shall inform the defendant of the
21 prohibition regarding firearms and include a form to facilitate the
22 transfer of firearms. Failure to provide the notice shall not be a
23 defense to a violation of this section.

24 (e) Any person who (1) is alleged to have committed an
25 offense listed in subdivision (b) of Section 707 of the Welfare
26 and Institutions Code, an offense described in subdivision (b) of
27 Section 1203.073, any offense enumerated in paragraph (1) of
28 subdivision (c), or any offense described in subdivision (a) of
29 Section 12025, subdivision (a) of Section 12031, or subdivision
30 (a) of Section 12034, and (2) is subsequently adjudged a ward of
31 the juvenile court within the meaning of Section 602 of the
32 Welfare and Institutions Code because the person committed an
33 offense listed in subdivision (b) of Section 707 of the Welfare
34 and Institutions Code, an offense described in subdivision (b) of
35 Section 1203.073, any offense enumerated in paragraph (1) of
36 subdivision (c), or any offense described in subdivision (a) of
37 Section 12025, subdivision (a) of Section 12031, or subdivision
38 (a) of Section 12034, shall not own, or have in his or her
39 possession or under his or her custody or control, any firearm
40 until the age of 30 years. A violation of this subdivision shall be

1 punishable by imprisonment in a county jail not exceeding one
2 year or in the state prison, by a fine not exceeding one thousand
3 dollars (\$1,000), or by both that imprisonment and fine. The
4 juvenile court, on forms prescribed by the Department of Justice,
5 shall notify the department of persons subject to this subdivision.
6 Notwithstanding any other law, the forms required to be
7 submitted to the department pursuant to this subdivision may be
8 used to determine eligibility to acquire a firearm.

9 (f) Subdivision (a) shall not apply to a person who has been
10 convicted of a felony under the laws of the United States unless
11 either of the following criteria is satisfied:

12 (1) Conviction of a like offense under California law can only
13 result in imposition of felony punishment.

14 (2) The defendant was sentenced to a federal correctional
15 facility for more than 30 days, or received a fine of more than
16 one thousand dollars (\$1,000), or received both punishments.

17 (g) (1) Every person who purchases or receives, or attempts to
18 purchase or receive, a firearm knowing that he or she is
19 prohibited from doing so by a temporary restraining order or
20 injunction issued pursuant to Section 527.6 or 527.8 of the Code
21 of Civil Procedure, a protective order as defined in Section 6218
22 of the Family Code, or issued pursuant to Section 136.2 or
23 646.91 of this code, or by a protective order issued pursuant to
24 Section 15657.03 of the Welfare and Institutions Code, is guilty
25 of a public offense, which shall be punishable by imprisonment
26 in a county jail not exceeding one year or in the state prison, by a
27 fine not exceeding one thousand dollars (\$1,000), or by both that
28 imprisonment and fine.

29 (2) Every person who owns or possesses a firearm knowing
30 that he or she is prohibited from doing so by a temporary
31 restraining order or injunction issued pursuant to Section 527.6
32 or 527.8 of the Code of Civil Procedure, a protective order as
33 defined in Section 6218 of the Family Code, a protective order
34 issued pursuant to Section 136.2 or 646.91 of this code, or by a
35 protective order issued pursuant to Section 15657.03 of the
36 Welfare and Institutions Code, is guilty of a public offense,
37 which shall be punishable by imprisonment in a county jail not
38 exceeding one year, by a fine not exceeding one thousand dollars
39 (\$1,000), or by both that imprisonment and fine.

1 (3) Judicial Council shall provide notice on all protective
2 orders that the respondent is prohibited from owning, possessing,
3 purchasing, receiving, or attempting to purchase or receive a
4 firearm while the protective order is in effect. The order shall
5 also state that the firearm shall be relinquished to the local law
6 enforcement agency for that jurisdiction or sold to a licensed gun
7 dealer, and that proof of surrender or sale shall be filed within a
8 specified time of receipt of the order. The order shall state the
9 penalties for a violation of the prohibition. The order shall also
10 state on its face the expiration date for relinquishment.

11 (4) If probation is granted upon conviction of a violation of
12 this subdivision, the court shall impose probation consistent with
13 the provisions of Section 1203.097.

14 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
15 justifiable where all of the following conditions are met:

16 (A) The person found the firearm or took the firearm from a
17 person who was committing a crime against him or her.

18 (B) The person possessed the firearm no longer than was
19 necessary to deliver or transport the firearm to a law enforcement
20 agency for that agency's disposition according to law.

21 (C) If the firearm was transported to a law enforcement
22 agency, it was transported in accordance with paragraph (17) of
23 subdivision (a) of Section 12026.2.

24 (D) If the firearm is being transported to a law enforcement
25 agency, the person transporting the firearm has given prior notice
26 to the law enforcement agency that he or she is transporting the
27 firearm to the law enforcement agency for disposition according
28 to law.

29 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
30 (e), the trier of fact shall determine whether the defendant was
31 acting within the provisions of the exemption created by this
32 subdivision.

33 (3) The defendant has the burden of proving by a
34 preponderance of the evidence that he or she comes within the
35 provisions of the exemption created by this subdivision.

36 (i) Subject to available funding, the Attorney General, working
37 with the Judicial Council, the California Alliance Against
38 Domestic Violence, prosecutors, and law enforcement, probation,
39 and parole officers, shall develop a protocol for the
40 implementation of the provisions of this section. The protocol

1 shall be designed to facilitate the enforcement of restrictions on
2 firearm ownership, including provisions for giving notice to
3 defendants who are restricted, provisions for informing those
4 defendants of the procedures by which defendants shall dispose
5 of firearms when required to do so, provisions explaining how
6 defendants shall provide proof of the lawful disposition of
7 firearms, and provisions explaining how defendants may obtain
8 possession of seized firearms when legally permitted to do so
9 pursuant to this section or any other provision of law. The
10 protocol shall be completed on or before January 1, 2005.

11 SEC. 9. Section 12021.3 of the Penal Code is amended to
12 read:

13 12021.3. (a) (1) Any person who claims title to any firearm
14 that is in the custody or control of a court or law enforcement
15 agency and who wishes to have the firearm returned to him or
16 her shall make application for a determination by the Department
17 of Justice as to whether he or she is eligible to possess a firearm.
18 The application shall include the following:

19 (A) The applicant's name, date and place of birth, gender,
20 telephone number, and complete address.

21 (B) Whether the applicant is a United States citizen. If the
22 applicant is not a United States citizen, he or she shall also
23 provide his or her country of citizenship and his or her alien
24 registration or I-94 number.

25 (C) If the firearm is a handgun, the firearm's make, model,
26 caliber, barrel length, handgun type, country of origin, and serial
27 number.

28 (D) For residents of California, the applicant's valid California
29 driver's license number or valid California identification card
30 number issued by the Department of Motor Vehicles. For
31 nonresidents of California, a copy of the applicant's military
32 identification with orders indicating that the individual is
33 stationed in California, or a copy of the applicant's valid driver's
34 license from the state of residence, or a copy of the applicant's
35 state identification card from the state of residence. Copies of the
36 documents provided by non-California residents shall be
37 notarized.

38 (E) The name of the court or law enforcement agency holding
39 the firearm.

40 (F) The signature of the applicant and the date of signature.

1 (G) Any person furnishing a fictitious name or address or
2 knowingly furnishing any incorrect information or knowingly
3 omitting any information required to be provided for the
4 application, including any notarized information pursuant to
5 subparagraph (D) of paragraph (1) of subdivision (a) shall be
6 guilty of a misdemeanor.

7 (2) A person who owns a firearm that is in the custody of a
8 court or law enforcement agency and who does not wish to
9 obtain possession of the firearm, and the firearm is an otherwise
10 legal firearm, and the person otherwise has right to title of the
11 firearm, shall be entitled to sell or transfer title of the firearm to a
12 licensed dealer as defined in Section 12071.

13 (3) Any person furnishing a fictitious name or address, or
14 knowingly furnishing any incorrect information or knowingly
15 omitting any information required to be provided for the
16 application, including any notarized information pursuant to
17 subparagraph (D) of paragraph (1) of subdivision (a) is
18 punishable as a misdemeanor.

19 (b) No law enforcement agency or court that has taken custody
20 of any firearm may return the firearm to any individual unless the
21 following requirements are satisfied:

22 (1) That individual presents to the agency or court notification
23 of a determination by the department pursuant to subdivision (e)
24 that the person is eligible to possess firearms.

25 (2) If the agency or court has direct access to the Automated
26 Firearms System, the agency or court has verified that the firearm
27 is not listed as stolen pursuant to Section 11108, and that the
28 firearm has been recorded in the Automated Firearms System in
29 the name of the individual who seeks its return.

30 (3) If the firearm has been reported lost or stolen pursuant to
31 Section 11108, a law enforcement agency shall notify the owner
32 or person entitled to possession pursuant to Section 11108.5.
33 However, that person shall provide proof of eligibility to possess
34 a firearm pursuant to subdivision (e). Nothing in this subdivision
35 shall prevent the local law enforcement agency from charging the
36 rightful owner or person entitled to possession of the firearm the
37 fees described in subdivision (j). However, individuals who are
38 applying for a background check to retrieve a firearm that comes
39 into the custody or control of the court or law enforcement
40 agency pursuant to subdivision (a) shall be exempt from the fees

1 in subdivision (c) provided that the court or agency determines
2 the firearm was reported stolen to a law enforcement agency
3 prior to the date the firearm came into custody or control of the
4 court or law enforcement agency or within five business days of
5 the firearm being stolen from its owner. The court or agency
6 shall notify the Department of Justice of this fee exemption in a
7 manner prescribed by the department.

8 (c) The Department of Justice shall establish a fee of twenty
9 dollars (\$20) per request for return of a firearm, plus a
10 three-dollar (\$3) charge for each additional handgun being
11 processed as part of the request to return a firearm, to cover its
12 costs for processing firearm clearance determinations submitted
13 pursuant to this section. The fees shall be deposited into the
14 Dealers' Record of Sale Special Account. The department may
15 increase the fee by using the California Consumer Price Index as
16 compiled and reported by the California Department of Industrial
17 Relations to determine an annual rate of increase. Any fee
18 increase shall be rounded to the nearest dollar.

19 (d) When the Department of Justice receives a completed
20 application pursuant to subdivision (a) accompanied with the fee
21 required pursuant to subdivision (c), it shall conduct an eligibility
22 check of the applicant to determine whether the applicant is
23 eligible to possess firearms.

24 (e) (1) If the department determines that the applicant is
25 eligible to possess the firearm, the department shall provide the
26 applicant with written notification that includes the following:

27 (A) The identity of the applicant.

28 (B) A statement that the applicant is eligible to possess a
29 firearm.

30 (C) If the firearm is a handgun, a description of the handgun
31 by make, model, and serial number.

32 (2) If the firearm is a handgun, the department shall enter a
33 record of the handgun into the Automated Firearms System.

34 (3) The department shall have 30 days from the date of receipt
35 to complete the background check unless delayed by
36 circumstances beyond the control of the department. The
37 applicant may contact the department to inquire about the reason
38 for the delay.

39 (f) If the department denies the application, and the firearm is
40 an otherwise legal firearm, the department shall notify the

1 applicant of the denial and provide a form for the applicant to use
2 to sell or transfer the firearm to a licensed dealer as defined in
3 Section 12071. The applicant may contact the department to
4 inquire about the reason for the denial.

5 (g) Notwithstanding any other provision of law, no law
6 enforcement agency or court shall be required to retain a firearm
7 for more than 180 days after the owner of the firearm has been
8 notified by the court or law enforcement agency that the firearm
9 has been made available for return. An unclaimed firearm may be
10 disposed of after the 180-day period has expired.

11 (h) Notwithstanding Section 11106, the department may retain
12 personal information about an applicant in connection with a
13 claim for a firearm that is not a handgun to allow for law
14 enforcement confirmation of compliance with this section. The
15 information retained may include personal identifying
16 information regarding the individual applying for the clearance,
17 but may not include information that identifies any particular
18 firearm that is not a handgun.

19 (i) (1) If a law enforcement agency determines that the
20 applicant is the legal owner of any firearm deposited with the law
21 enforcement agency and is prohibited from possessing any
22 firearm and the firearm is an otherwise legal firearm, the
23 applicant shall be entitled to sell or transfer the firearm to a
24 licensed dealer as defined in Section 12071.

25 (2) If the firearm has been lost or stolen, the firearm shall be
26 restored to the lawful owner pursuant to Section 11108.5 upon
27 his or her identification of the firearm and proof of ownership,
28 and proof of eligibility to possess a firearm pursuant to
29 subdivision (e). Nothing in this subdivision shall prevent the
30 local law enforcement agency from charging the rightful owner
31 of the firearm the fees described in subdivision (j).

32 (3) Subdivision (a) of Section 12070 shall not apply to
33 deliveries, transfers, or returns of firearms made by a court or a
34 law enforcement agency pursuant to this section.

35 (4) Subdivision (d) of Section 12072 shall not apply to
36 deliveries, transfers, or returns of firearms made pursuant to this
37 section.

38 (j) (1) A city, county, or city and county, or a state agency
39 may adopt a regulation, ordinance, or resolution imposing a
40 charge equal to its administrative costs relating to the seizure,

1 impounding, storage, or release of firearms. The fees shall not
2 exceed the actual costs incurred for the expenses directly related
3 to taking possession of a firearm, storing the firearm, and
4 surrendering possession of the firearm to a licensed firearms
5 dealer or to the owner. Those administrative costs may be waived
6 by the local or state agency upon verifiable proof that the firearm
7 was reported stolen at the time the firearm came into the custody
8 or control of the law enforcement agency.

9 (2) The following apply to any charges imposed for
10 administrative costs pursuant to this subdivision:

11 (A) The charges shall only be imposed on the person claiming
12 title to the firearms.

13 (B) Any charges shall be collected by the local or state
14 authority only from the person claiming title to the firearm.

15 (C) The charges shall be in addition to any other charges
16 authorized or imposed pursuant to this code.

17 (D) No charge may be imposed for any hearing or appeal
18 relating to the removal, impound, storage, or release of a firearm
19 unless that hearing or appeal was requested in writing by the
20 legal owner of the firearm. In addition, the charge may be
21 imposed only upon the person requesting that hearing or appeal.

22 (3) No costs for any hearing or appeal related to the release of
23 a firearm shall be charged to the legal owner who redeems the
24 firearm unless the legal owner voluntarily requests the post
25 storage hearing or appeal. No city, county, city and county, or
26 state agency shall require a legal owner to request a post storage
27 hearing as a requirement for release of the firearm to the legal
28 owner.

29 (k) In a proceeding for the return of a firearm seized and not
30 returned pursuant to this section, where the defendant or
31 cross-defendant is a law enforcement agency, the court shall
32 award reasonable attorney's fees to the prevailing party.

33 SEC. 10. Section 12026.2 of the Penal Code is amended to
34 read:

35 12026.2. (a) Section 12025 does not apply to, or affect, any
36 of the following:

37 (1) The possession of a firearm by an authorized participant in
38 a motion picture, television, or video production or entertainment
39 event when the participant lawfully uses the firearm as part of

1 that production or event or while going directly to, or coming
2 directly from, that production or event.

3 (2) The possession of a firearm in a locked container by a
4 member of any club or organization, organized for the purpose of
5 lawfully collecting and lawfully displaying pistols, revolvers, or
6 other firearms, while the member is at meetings of the clubs or
7 organizations or while going directly to, and coming directly
8 from, those meetings.

9 (3) The transportation of a firearm by a participant when going
10 directly to, or coming directly from, a recognized safety or hunter
11 safety class, or a recognized sporting event involving that
12 firearm.

13 (4) The transportation of a firearm by a person listed in
14 Section 12026 directly between any of the places mentioned in
15 Section 12026.

16 (5) The transportation of a firearm by a person when going
17 directly to, or coming directly from, a fixed place of business or
18 private residential property for the purpose of the lawful repair or
19 the lawful transfer, sale, or loan of that firearm.

20 (6) The transportation of a firearm by a person listed in
21 Section 12026 when going directly from the place where that
22 person lawfully received that firearm to that person's place of
23 residence or place of business or to private property owned or
24 lawfully possessed by that person.

25 (7) The transportation of a firearm by a person when going
26 directly to, or coming directly from, a gun show, swap meet, or
27 similar event to which the public is invited, for the purpose of
28 displaying that firearm in a lawful manner.

29 (8) The transportation of a firearm by an authorized employee
30 or agent of a supplier of firearms when going directly to, or
31 coming directly from, a motion picture, television, or video
32 production or entertainment event for the purpose of providing
33 that firearm to an authorized participant to lawfully use as a part
34 of that production or event.

35 (9) The transportation of a firearm by a person when going
36 directly to, or coming directly from, a target range, which holds a
37 regulatory or business license, for the purposes of practicing
38 shooting at targets with that firearm at that target range.

39 (10) The transportation of a firearm by a person when going
40 directly to, or coming directly from, a place designated by a

1 person authorized to issue licenses pursuant to Section 12050
2 when done at the request of the issuing agency so that the issuing
3 agency can determine whether or not a license should be issued
4 to that person to carry that firearm.

5 (11) The transportation of a firearm by a person when going
6 directly to, or coming directly from, a lawful camping activity for
7 the purpose of having that firearm available for lawful personal
8 protection while at the lawful campsite. This paragraph shall not
9 be construed to override the statutory authority granted to the
10 Department of Parks and Recreation or any other state or local
11 governmental agencies to promulgate rules and regulations
12 governing the administration of parks and campgrounds.

13 (12) The transportation of a firearm by a person in order to
14 comply with subdivision (c) or (i) of Section 12078 as it pertains
15 to that firearm.

16 (13) The transportation of a firearm by a person in order to
17 utilize subdivision (j) of Section 12078 as it pertains to that
18 firearm.

19 (14) The transportation of a firearm by a person when going
20 directly to, or coming directly from, a gun show or event, as
21 defined in Section 478.100 of Title 27 of the Code of Federal
22 Regulations, for the purpose of lawfully transferring, selling, or
23 loaning that firearm in accordance with subdivision (d) of
24 Section 12072.

25 (15) The transportation of a firearm by a person in order to
26 utilize paragraph (6) of subdivision (a) of Section 12078 as it
27 pertains to that firearm.

28 (16) The transportation of a firearm by a person who finds the
29 firearm in order to comply with Article 1 (commencing with
30 Section 2080) of Chapter 4 of Division 3 of the Civil Code as it
31 pertains to that firearm and if that firearm is being transported to
32 a law enforcement agency, the person gives prior notice to the
33 law enforcement agency that he or she is transporting the firearm
34 to the law enforcement agency.

35 (17) The transportation of a firearm by a person who finds the
36 firearm and is transporting it to a law enforcement agency for
37 disposition according to law, if he or she gives prior notice to the
38 law enforcement agency that he or she is transporting the firearm
39 to the law enforcement agency for disposition according to law.

1 (18) The transportation of a firearm by a person in order to
2 comply with paragraph (2) of subdivision (f) of Section 12072 as
3 it pertains to that firearm.

4 (19) The transportation of a firearm by a person in order to
5 comply with paragraph (3) of subdivision (f) of Section 12072 as
6 it pertains to that firearm.

7 (20) The transportation of a firearm by a person for the
8 purpose of obtaining an identification number or mark assigned
9 for that firearm from the Department of Justice pursuant to
10 Section 12092.

11 (b) In order for a firearm to be exempted under subdivision
12 (a), while being transported to or from a place, the firearm shall
13 be unloaded, kept in a locked container, as defined in subdivision
14 (d), and the course of travel shall include only those deviations
15 between authorized locations as are reasonably necessary under
16 the circumstances.

17 (c) This section does not prohibit or limit the otherwise lawful
18 carrying or transportation of any pistol, revolver, or other firearm
19 capable of being concealed upon the person in accordance with
20 this chapter.

21 (d) As used in this section, “locked container” means a secure
22 container which is fully enclosed and locked by a padlock,
23 keylock, combination lock, or similar locking device. The term
24 “locked container” does not include the utility or glove
25 compartment of a motor vehicle.

26 SEC. 11. Section 12028.5 of the Penal Code is amended to
27 read:

28 12028.5. (a) As used in this section, the following definitions
29 shall apply:

30 (1) “Abuse” means any of the following:

31 (A) Intentionally or recklessly to cause or attempt to cause
32 bodily injury.

33 (B) Sexual assault.

34 (C) To place a person in reasonable apprehension of imminent
35 serious bodily injury to that person or to another.

36 (D) To molest, attack, strike, stalk, destroy personal property,
37 or violate the terms of a domestic violence protective order
38 issued pursuant to Part 4 (commencing with Section 6300) of
39 Division 10 of the Family Code.

(2) “Domestic violence” means abuse perpetrated against any of the following persons:

(A) A spouse or former spouse.

(B) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.

(C) A person with whom the respondent is having or has had a dating or engagement relationship.

(D) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(E) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(F) Any other person related by consanguinity or affinity within the second degree.

(3) “Deadly weapon” means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (c) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, a peace officer, as defined in subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in Section 830.5, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who

1 possessed the firearm a receipt. The receipt shall describe the
2 firearm or other deadly weapon and list any identification or
3 serial number on the firearm. The receipt shall indicate where the
4 firearm or other deadly weapon can be recovered, the time limit
5 for recovery as required by this section, and the date after which
6 the owner or possessor can recover the firearm or other deadly
7 weapon. No firearm or other deadly weapon shall be held less
8 than 48 hours. Except as provided in subdivision (f), if a firearm
9 or other deadly weapon is not retained for use as evidence related
10 to criminal charges brought as a result of the domestic violence
11 incident or is not retained because it was illegally possessed, the
12 firearm or other deadly weapon shall be made available to the
13 owner or person who was in lawful possession 48 hours after the
14 seizure or as soon thereafter as possible, but no later than five
15 business days after the owner or person who was in lawful
16 possession demonstrates compliance with Section 12021.3. In
17 any civil action or proceeding for the return of firearms or
18 ammunition or other deadly weapon seized by any state or local
19 law enforcement agency and not returned within five business
20 days following the initial seizure, except as provided in
21 subdivision (d), the court shall allow reasonable attorney's fees
22 to the prevailing party.

23 (c) Any peace officer, as defined in subdivisions (a) and (b) of
24 Section 830.32, who takes custody of a firearm or deadly weapon
25 pursuant to this section shall deliver the firearm within 24 hours
26 to the city police department or county sheriff's office in the
27 jurisdiction where the college or school is located.

28 (d) Any firearm or other deadly weapon that has been taken
29 into custody that has been stolen shall be restored to the lawful
30 owner, as soon as its use for evidence has been served, upon his
31 or her identification of the firearm or other deadly weapon and
32 proof of ownership, and after the law enforcement agency has
33 complied with Section 12021.3.

34 (e) Any firearm or other deadly weapon taken into custody and
35 held by a police, university police, or sheriff's department or by
36 a marshal's office, by a peace officer of the Department of the
37 California Highway Patrol, as defined in subdivision (a) of
38 Section 830.2, by a peace officer of the Department of Parks and
39 Recreation, as defined in subdivision (f) of Section 830.2, by a
40 peace officer, as defined in subdivision (d) of Section 830.31, or

1 by a peace officer, as defined in Section 830.5, for longer than 12
2 months and not recovered by the owner or person who has lawful
3 possession at the time it was taken into custody, shall be
4 considered a nuisance and sold or destroyed as provided in
5 subdivision (c) of Section 12028. Firearms or other deadly
6 weapons not recovered within 12 months due to an extended
7 hearing process as provided in subdivision (j), are not subject to
8 destruction until the court issues a decision, and then only if the
9 court does not order the return of the firearm or other deadly
10 weapon to the owner.

11 (f) In those cases in which a law enforcement agency has
12 reasonable cause to believe that the return of a firearm or other
13 deadly weapon would be likely to result in endangering the
14 victim or the person reporting the assault or threat, the agency
15 shall advise the owner of the firearm or other deadly weapon, and
16 within 60 days of the date of seizure, initiate a petition in
17 superior court to determine if the firearm or other deadly weapon
18 should be returned. The law enforcement agency may make an ex
19 parte application stating good cause for an order extending the
20 time to file a petition. Including any extension of time granted in
21 response to an ex parte request, a petition must be filed within 90
22 days of the date of seizure of the firearm or other deadly weapon.

23 (g) The law enforcement agency shall inform the owner or
24 person who had lawful possession of the firearm or other deadly
25 weapon, at that person's last known address by registered mail,
26 return receipt requested, that he or she has 30 days from the date
27 of receipt of the notice to respond to the court clerk to confirm
28 his or her desire for a hearing, and that the failure to respond
29 shall result in a default order forfeiting the confiscated firearm or
30 other deadly weapon. For the purposes of this subdivision, the
31 person's last known address shall be presumed to be the address
32 provided to the law enforcement officer by that person at the time
33 of the family violence incident. In the event the person whose
34 firearm or other deadly weapon was seized does not reside at the
35 last address provided to the agency, the agency shall make a
36 diligent, good faith effort to learn the whereabouts of the person
37 and to comply with these notification requirements.

38 (h) If the person requests a hearing, the court clerk shall set a
39 hearing no later than 30 days from receipt of that request. The
40 court clerk shall notify the person, the law enforcement agency

involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by a preponderance of the evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(i) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(j) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If there is a petition for a second hearing, unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(k) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 12. Section 12035 of the Penal Code is amended to read:

12035. (a) As used in this section, the following definitions apply:

(1) "Locking device" means a device that is designed to prevent the firearm from functioning and when applied to the firearm, renders the firearm inoperable.

(2) "Loaded firearm" has the same meaning as set forth in subdivision (g) of Section 12031.

(3) "Child" means a person under 18 years of age.

1 (4) “Great bodily injury” has the same meaning as set forth in
2 Section 12022.7.

3 (5) “Locked container” has the same meaning as set forth in
4 subdivision (d) of Section 12026.2.

5 (b) (1) Except as provided in subdivision (c), a person
6 commits the crime of “criminal storage of a firearm of the first
7 degree” if he or she keeps any loaded firearm within any
8 premises that are under his or her custody or control and he or
9 she knows or reasonably should know that a child is likely to
10 gain access to the firearm without the permission of the child’s
11 parent or legal guardian and the child obtains access to the
12 firearm and thereby causes death or great bodily injury to
13 himself, herself, or any other person.

14 (2) Except as provided in subdivision (c), a person commits
15 the crime of “criminal storage of a firearm of the second degree”
16 if he or she keeps any loaded firearm within any premises that
17 are under his or her custody or control and he or she knows or
18 reasonably should know that a child is likely to gain access to the
19 firearm without the permission of the child’s parent or legal
20 guardian and the child obtains access to the firearm and thereby
21 causes injury, other than great bodily injury, to himself, herself,
22 or any other person, or carries the firearm either to a public place
23 or in violation of Section 417.

24 (c) Subdivision (b) shall not apply whenever any of the
25 following occurs:

26 (1) The child obtains the firearm as a result of an illegal entry
27 to any premises by any person.

28 (2) The firearm is kept in a locked container or in a location
29 that a reasonable person would believe to be secure.

30 (3) The firearm is carried on the person or within such a close
31 proximity thereto that the individual can readily retrieve and use
32 the firearm as if carried on the person.

33 (4) The firearm is locked with a locking device that has
34 rendered the firearm inoperable.

35 (5) The person is a peace officer or a member of the armed
36 forces or National Guard and the child obtains the firearm during,
37 or incidental to, the performance of the person’s duties.

38 (6) The child obtains, or obtains and discharges, the firearm in
39 a lawful act of self-defense or defense of another person, or
40 persons.

1 (7) The person who keeps a loaded firearm on any premise
2 that is under his or her custody or control has no reasonable
3 expectation, based on objective facts and circumstances, that a
4 child is likely to be present on the premises.

5 (d) Criminal storage of a firearm is punishable as follows:

6 (1) Criminal storage of a firearm in the first degree, by
7 imprisonment in the state prison for 16 months, or two or three
8 years, by a fine not exceeding ten thousand dollars (\$10,000), or
9 by both that imprisonment and fine; or by imprisonment in a
10 county jail not exceeding one year, by a fine not exceeding one
11 thousand dollars (\$1,000), or by both that fine and imprisonment.

12 (2) Criminal storage of a firearm in the second degree, by
13 imprisonment in a county jail not exceeding one year, by a fine
14 not exceeding one thousand dollars (\$1,000), or by both that
15 imprisonment and fine.

16 (e) If the person who allegedly violated this section is the
17 parent or guardian of a child who is injured or who dies as the
18 result of an accidental shooting, the district attorney shall
19 consider, among other factors, the impact of the injury or death
20 on the person alleged to have violated this section when deciding
21 whether to prosecute an alleged violation. It is the Legislature's
22 intent that a parent or guardian of a child who is injured or who
23 dies as the result of an accidental shooting shall be prosecuted
24 only in those instances in which the parent or guardian behaved
25 in a grossly negligent manner or where similarly egregious
26 circumstances exist. This subdivision shall not otherwise restrict,
27 in any manner, the factors that a district attorney may consider
28 when deciding whether to prosecute alleged violations of this
29 section.

30 (f) If the person who allegedly violated this section is the
31 parent or guardian of a child who is injured or who dies as the
32 result of an accidental shooting, no arrest of the person for the
33 alleged violation of this section shall occur until at least seven
34 days after the date upon which the accidental shooting occurred.

35 In addition to the limitation contained in this subdivision, a law
36 enforcement officer shall consider the health status of a child
37 who suffers great bodily injury as the result of an accidental
38 shooting prior to arresting a person for a violation of this section,
39 if the person to be arrested is the parent or guardian of the injured
40 child. The intent of this subdivision is to encourage law

1 enforcement officials to delay the arrest of a parent or guardian
2 of a seriously injured child while the child remains on
3 life-support equipment or is in a similarly critical medical
4 condition.

5 (g) (1) The fact that the person who allegedly violated this
6 section attended a firearm safety training course prior to the
7 purchase of the firearm that is obtained by a child in violation of
8 this section shall be considered a mitigating factor by a district
9 attorney when he or she is deciding whether to prosecute the
10 alleged violation.

11 (2) In any action or trial commenced under this section, the
12 fact that the person who allegedly violated this section attended a
13 firearm safety training course prior to the purchase of the firearm
14 that is obtained by a child in violation of this section, shall be
15 admissible.

16 (h) Every person licensed under Section 12071 shall post
17 within the licensed premises the notice required by Section
18 12071.4, disclosing the duty imposed by this section upon any
19 person who keeps a loaded firearm.

20 SEC. 13. Section 12036 of the Penal Code is amended to
21 read:

22 12036. (a) As used in this section, the following definitions
23 shall apply:

24 (1) "Locking device" means a device that is designed to
25 prevent the firearm from functioning and when applied to the
26 firearm, renders the firearm inoperable.

27 (2) "Child" means a person under the age of 18 years.

28 (3) "Off-premises" means premises other than the premises
29 where the firearm was stored.

30 (4) "Locked container" has the same meaning as set forth in
31 subdivision (d) of Section 12026.2.

32 (b) A person who keeps a pistol, revolver, or other firearm
33 capable of being concealed upon the person, loaded or unloaded,
34 within any premises that are under his or her custody or control
35 and he or she knows or reasonably should know that a child is
36 likely to gain access to that firearm without the permission of the
37 child's parent or legal guardian and the child obtains access to
38 that firearm and thereafter carries that firearm off-premises, shall
39 be punished by imprisonment in a county jail not exceeding one

1 year, by a fine not exceeding one thousand dollars (\$1,000), or
2 by both that imprisonment and fine.

3 (c) A person who keeps any firearm within any premises that
4 is under his or her custody or control and he or she knows or
5 reasonably should know that a child is likely to gain access to the
6 firearm without the permission of the child's parent or legal
7 guardian and the child obtains access to the firearm and
8 thereafter carries that firearm off-premises to any public or
9 private preschool, elementary school, middle school, high school,
10 or to any school-sponsored event, activity, or performance
11 whether occurring on school grounds or elsewhere, shall be
12 punished by imprisonment in a county jail not exceeding one
13 year, by a fine not exceeding five thousand dollars (\$5,000), or
14 by both that imprisonment and fine.

15 (d) A pistol, revolver, or other firearm capable of being
16 concealed upon the person that a child gains access to and carries
17 off-premises in violation of this section shall be deemed "used in
18 the commission of any misdemeanor as provided in this code or
19 any felony" for the purpose of subdivision (b) of Section 12028
20 regarding the authority to confiscate firearms and other deadly
21 weapons as a nuisance.

22 (e) This section shall not apply if any one of the following
23 circumstances exists:

24 (1) The child obtains the firearm as a result of an illegal entry
25 into any premises by any person.

26 (2) The firearm is kept in a locked container or in a location
27 that a reasonable person would believe to be secure.

28 (3) The firearm is locked with a locking device that has
29 rendered the firearm inoperable.

30 (4) The firearm is carried on the person within such a close
31 range that the individual can readily retrieve and use the firearm
32 as if carried on the person.

33 (5) The person is a peace officer or a member of the Armed
34 Forces or National Guard and the child obtains the firearm
35 during, or incidental to, the performance of the person's duties.

36 (6) The child obtains, or obtains and discharges, the firearm in
37 a lawful act of self-defense or defense of another person or
38 persons.

1 (7) The person who keeps a firearm has no reasonable
2 expectation, based on objective facts and circumstances, that a
3 child is likely to be present on the premises.

4 (f) If the person who allegedly violated this section is the
5 parent or guardian of a child who is injured or who dies as the
6 result of an accidental shooting, the district attorney shall
7 consider, among other factors, the impact of the injury or death
8 on the person alleged to have violated this section when deciding
9 whether to prosecute the alleged violation. It is the Legislature's
10 intent that a parent or guardian of a child who is injured or who
11 dies as the result of an accidental shooting shall be prosecuted
12 only in those instances in which the parent or guardian behaved
13 in a grossly negligent manner or where similarly egregious
14 circumstances exist. This subdivision shall not otherwise restrict,
15 in any manner, the factors that a district attorney may consider
16 when deciding whether to prosecute alleged violations of this
17 section.

18 (g) If the person who allegedly violated this section is the
19 parent or guardian of a child who is injured or who dies as the
20 result of an accidental shooting, no arrest of the person for the
21 alleged violation of this section shall occur until at least seven
22 days after the date upon which the accidental shooting occurred.

23 In addition to the limitation contained in this subdivision, a law
24 enforcement officer shall consider the health status of a child
25 who suffers great bodily injury as the result of an accidental
26 shooting prior to arresting a person for a violation of this section,
27 if the person to be arrested is the parent or guardian of the injured
28 child. The intent of this subdivision is to encourage law
29 enforcement officials to delay the arrest of a parent or guardian
30 of a seriously injured child while the child remains on
31 life-support equipment or is in a similarly critical medical
32 condition.

33 (h) (1) The fact that the person who allegedly violated this
34 section attended a firearm safety training course prior to the
35 purchase of the firearm that is obtained by a child in violation of
36 this section shall be considered a mitigating factor by a district
37 attorney when he or she is deciding whether to prosecute the
38 alleged violation.

39 (2) In any action or trial commenced under this section, the
40 fact that the person who allegedly violated this section attended a

1 firearm safety training course prior to the purchase of the firearm
2 that is obtained by a child in violation of this section, shall be
3 admissible.

4 (i) Every person licensed under Section 12071 shall post
5 within the licensed premises the notice required by Section
6 12071.4, disclosing the duty imposed by this section upon any
7 person who keeps any firearm.

8 SEC. 14. Section 12070 of the Penal Code is amended to
9 read:

10 12070. (a) No person shall sell, lease, or transfer firearms
11 unless he or she has been issued a license pursuant to Section
12 12071. Any person violating this section is guilty of a
13 misdemeanor.

14 (b) Subdivision (a) does not include any of the following:

15 (1) The sale, lease, or transfer of any firearm by a person
16 acting pursuant to operation of law, a court order, or pursuant to
17 the Enforcement of Judgments Law (Title 9 (commencing with
18 Section 680.010) of Part 2 of the Code of Civil Procedure), or by
19 a person who liquidates a personal firearm collection to satisfy a
20 court judgment.

21 (2) A person acting pursuant to subdivision (e) of Section
22 186.22a or subdivision (c) of Section 12028.

23 (3) The sale, lease, or transfer of a firearm by a person who
24 obtains title to the firearm by intestate succession or by bequest
25 or as a surviving spouse pursuant to Chapter 1 (commencing with
26 Section 13500) of Part 2 of Division 8 of the Probate Code,
27 provided the person disposes of the firearm within 60 days of
28 receipt of the firearm.

29 (4) The infrequent sale, lease, or transfer of firearms.

30 (5) The sale, lease, or transfer of used firearms other than
31 pistols, revolvers, or other firearms capable of being concealed
32 upon the person, at gun shows or events, as specified in Section
33 12071.1, by a person other than a licensee or dealer, provided the
34 person has a valid federal firearms license and a current
35 certificate of eligibility issued by the Department of Justice, as
36 specified in Section 12071, and provided all the sales, leases, or
37 transfers fully comply with subdivision (d) of Section 12072.
38 However, the person shall not engage in the sale, lease, or
39 transfer of used firearms other than pistols, revolvers, or other
40 firearms capable of being concealed upon the person at more

1 than 12 gun shows or events in any calendar year and shall not
2 sell, lease, or transfer more than 15 used firearms other than
3 pistols, revolvers, or other firearms capable of being concealed
4 upon the person at any single gun show or event. In no event
5 shall the person sell more than 75 used firearms other than
6 pistols, revolvers, or other firearms capable of being concealed
7 upon the person in any calendar year.

8 A person described in this paragraph shall be known as a “Gun
9 Show Trader.”

10 The Department of Justice shall adopt regulations to administer
11 this program and shall recover the full costs of administration
12 from fees assessed applicants.

13 As used in this paragraph, the term “used firearm” means a
14 firearm that has been sold previously at retail and is more than
15 three years old.

16 (6) Deliveries, sales, or transfers of firearms between or to
17 importers and manufacturers of firearms licensed to engage in
18 business pursuant to Chapter 44 (commencing with Section 921)
19 of Title 18 of the United States Code and the regulations issued
20 pursuant thereto.

21 (7) The sale, delivery, or transfer of firearms by manufacturers
22 or importers licensed pursuant to Chapter 44 (commencing with
23 Section 921) of Title 18 of the United States Code and the
24 regulations issued pursuant thereto to dealers or wholesalers.

25 (8) Deliveries and transfers of firearms made pursuant to
26 Section 12028, 12028.5, or 12030.

27 (9) The loan of a firearm for the purposes of shooting at
28 targets, if the loan occurs on the premises of a target facility
29 which holds a business or regulatory license or on the premises
30 of any club or organization organized for the purposes of
31 practicing shooting at targets upon established ranges, whether
32 public or private, if the firearm is at all times kept within the
33 premises of the target range or on the premises of the club or
34 organization.

35 (10) Sales, deliveries, or transfers of firearms by
36 manufacturers, importers, or wholesalers licensed pursuant to
37 Chapter 44 (commencing with Section 921) of Title 18 of the
38 United States Code and the regulations issued pursuant thereto to
39 persons who reside outside this state who are licensed pursuant to
40 Chapter 44 (commencing with Section 921) of Title 18 of the

1 United States Code and the regulations issued pursuant thereto, if
2 the sale, delivery, or transfer is in accordance with Chapter 44
3 (commencing with Section 921) of Title 18 of the United States
4 Code and the regulations issued pursuant thereto.

5 (11) Sales, deliveries, or transfers of firearms by persons who
6 reside outside this state and are licensed outside this state
7 pursuant to Chapter 44 (commencing with Section 921) of Title
8 18 of the United States Code and the regulations issued pursuant
9 thereto to wholesalers, manufacturers, or importers, if the sale,
10 delivery, or transfer is in accordance with Chapter 44
11 (commencing with Section 921) of Title 18 of the United States
12 Code and the regulations issued pursuant thereto.

13 (12) Sales, deliveries, or transfers of firearms by wholesalers
14 to dealers.

15 (13) Sales, deliveries, or transfers of firearms by persons who
16 reside outside this state to persons licensed pursuant to Section
17 12071, if the sale, delivery, or transfer is in accordance with
18 Chapter 44 (commencing with Section 921) of Title 18 of the
19 United States Code, and the regulations issued pursuant thereto.

20 (14) Sales, deliveries, or transfers of firearms by persons who
21 reside outside this state and are licensed pursuant to Chapter 44
22 (commencing with Section 921) of Title 18 of the United States
23 Code and the regulations issued pursuant thereto to dealers, if the
24 sale, delivery, or transfer is in accordance with Chapter 44
25 (commencing with Section 921) of Title 18 of the United States
26 Code and the regulations issued pursuant thereto.

27 (15) The delivery, sale, or transfer of an unloaded firearm by
28 one wholesaler to another wholesaler if that firearm is intended
29 as merchandise in the receiving wholesaler's business.

30 (16) The loan of an unloaded firearm or the loan of a firearm
31 loaded with blank cartridges for use solely as a prop for a motion
32 picture, television, or video production or entertainment or
33 theatrical event.

34 (17) The delivery of an unloaded firearm that is a curio or
35 relic, as defined in Section 478.11 of Title 27 of the Code of
36 Federal Regulations, by a person licensed as a collector pursuant
37 to Chapter 44 (commencing with Section 921) of Title 18 of the
38 United States Code and the regulations issued pursuant thereto
39 with a current certificate of eligibility issued pursuant to Section
40 12071 to a dealer.

~~(18) The loan of a firearm by a security company, or the authorized representative of a branch of that company located in this state, to an authorized employee thereof who is authorized to carry a firearm in accordance with subdivision (d) of Section 12031 in the course and scope of employment, if the firearm is loaned to the authorized employee to carry in the course and scope of employment.~~

(c) (1) As used in this section, “infrequent” means:

(A) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, “transaction” means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(B) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

(2) As used in this section, “operation of law” includes, but is not limited to, any of the following:

(A) The executor or administrator of an estate, if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver, if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties, if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property between spouses pursuant to Section 850 of the Family Code.

(H) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(I) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1

1 (commencing with Section 2080) of Chapter 4 of Division 3 of
2 the Civil Code.

3 SEC. 15. Section 12071 of the Penal Code is repealed.

4 SEC. 16. Section 12071 is added to the Penal Code, to read:

5 12071. (a) As used in this chapter, the term “licensee,”
6 “person licensed pursuant to Section 12071,” or “dealer” means a
7 person who has all of the following:

8 (1) A valid federal firearms license.

9 (2) Any regulatory or business license, or licenses, required by
10 local government.

11 (3) A valid seller’s permit issued by the State Board of
12 Equalization.

13 (4) A certificate of eligibility issued by the Department of
14 Justice pursuant to subdivision (d).

15 (5) A license issued in the format prescribed by subdivision (f).

16 (6) Is among those recorded in the centralized list specified in
17 Section 12071.7.

18 (b) The duly constituted licensing authority of a city, county, or
19 a city and county shall accept applications for, and may grant
20 licenses permitting, licensees to sell firearms at retail within the
21 city, county, or city and county. The duly constituted licensing
22 authority shall inform applicants who are denied licenses of the
23 reasons for the denial in writing.

24 (c) No license shall be granted to any applicant who fails to
25 provide a copy of his or her valid federal firearms license, valid
26 seller’s permit issued by the State Board of Equalization, and the
27 certificate of eligibility described in paragraph (4).

28 (d) A person may request a certificate of eligibility from the
29 Department of Justice and the Department of Justice shall issue a
30 certificate to an applicant if the department’s records indicate that
31 the applicant is not a person who is prohibited from possessing
32 firearms.

33 (e) The department shall adopt regulations to administer the
34 certificate of eligibility program and shall recover the full costs
35 of administering the program by imposing fees assessed to
36 applicants who apply for those certificates.

37 (f) A license granted by the duly constituted licensing authority
38 of any city, county, or city and county, shall be valid for not
39 more than one year from the date of issuance and shall be in one
40 of the following forms:

1 (1) In the form prescribed by the Attorney General.

2 (2) A regulatory or business license that states on its face
3 “Valid for Retail Sales of Firearms” and is endorsed by the
4 signature of the issuing authority.

5 (3) A letter from the duly constituted licensing authority having
6 primary jurisdiction for the applicant’s intended business location
7 stating that the jurisdiction does not require any form of
8 regulatory or business license or does not otherwise restrict or
9 regulate the sale of firearms.

10 (g) Local licensing authorities may assess fees to recover their
11 full costs of processing applications for licenses.

12 (h) A license granted pursuant to this section is subject to
13 forfeiture for a breach of any of the prohibitions and
14 requirements of this section.

15 SEC. 17. Section 12071.1 of the Penal Code, as amended by
16 Section 2 of Chapter 247 of the Statutes of 1999, is amended and
17 renumbered to read:

18 12083.5 (a) No person shall produce, promote, sponsor,
19 operate, or otherwise organize a gun show or event, as specified
20 in Section 12071.2, unless that person possesses a valid
21 certificate of eligibility from the Department of Justice. Unless
22 the department’s records indicate that the applicant is a person
23 prohibited from possessing firearms, a certificate of eligibility
24 shall be issued by the Department of Justice to an applicant
25 provided the applicant does all of the following:

26 (1) Certifies that he or she is familiar with the provisions of
27 this section and Section 12083.7.

28 (2) Ensures that liability insurance is in effect for the duration
29 of an event or show in an amount of not less than one million
30 dollars (\$1,000,000).

31 (3) Provides an annual list of the gun shows or events that the
32 applicant plans to promote, produce, sponsor, operate, or
33 otherwise organize during the year for which the certificate of
34 eligibility is issued, including the date, time, and location of the
35 gun shows or events.

36 (b) If during that year the information required by paragraph
37 (3) of subdivision (a) changes, or additional gun shows or events
38 will be promoted, produced, sponsored, operated, or otherwise
39 organized by the applicant, the producer shall notify the

1 Department of Justice no later than 30 days prior to the gun show
2 or event.

3 (c) As used in this section, a “licensed gun show producer”
4 means a person who has been issued a certificate of eligibility by
5 the Department of Justice pursuant to subdivision (a). No
6 regulations shall be required to implement this subdivision.

7 (d) The Department of Justice shall adopt regulations to
8 administer the certificate of eligibility program under this section
9 and shall recover the full costs of administering the program by
10 fees assessed applicants who apply for certificates. A licensed
11 gun show producer shall be assessed an annual fee of eighty-five
12 dollars (\$85) by the department.

13 (e) (1) A willful failure by a gun show producer to comply
14 with any of the requirements of this section, except for the
15 posting of required signs, shall be a misdemeanor punishable by
16 a fine not to exceed two thousand dollars (\$2,000), and shall
17 render the producer ineligible for a gun show producer license
18 for one year from the date of the conviction.

19 (2) The willful failure of a gun show producer to post signs as
20 required by this section shall be a misdemeanor punishable by a
21 fine not to exceed one thousand dollars (\$1,000) for the first
22 offense and not to exceed two thousand dollars (\$2,000) for the
23 second or subsequent offense, and with respect to the second or
24 subsequent offense, shall render the producer ineligible for a gun
25 show producer license for one year from the date of the
26 conviction.

27 (3) Multiple violations charged pursuant to paragraph (1)
28 arising from more than one gun show or event shall be grounds
29 for suspension of a producer’s certificate of eligibility pending
30 adjudication of the violations.

31 (f) Prior to the commencement of a gun show or event, the
32 producer thereof shall, upon written request, within 48 hours, or
33 a later time specified by the requesting law enforcement agency,
34 make available to the requesting law enforcement agency with
35 jurisdiction over the facility, a complete and accurate list of all
36 persons, entities, and organizations that have leased or rented, or
37 are known to the producer to intend to lease or rent, any table,
38 display space, or area at the gun show or event for the purpose of
39 selling, leasing, or transferring firearms.

1 The producer shall thereafter, upon written request, for every
2 day the gun show or event operates, within 24 hours, or a later
3 time specified by the requesting law enforcement agency, make
4 available to the requesting law enforcement agency with
5 jurisdiction over the facility, an accurate, complete, and current
6 list of the persons, entities, and organizations that have leased or
7 rented, or are known to the producer to intend to lease or rent,
8 any table, display space, or area at the gun show or event for the
9 purpose of selling, leasing, or transferring firearms.

10 This subdivision applies to persons, entities, and organizations
11 whether or not they participate in the entire gun show or event, or
12 only a portion thereof.

13 (g) The information that may be requested by the law
14 enforcement agency with jurisdiction over the facility, and that
15 shall be provided by the producer upon request, may include, but
16 is not limited to, the following information relative to a vendor
17 who offers for sale firearms manufactured after December 31,
18 1898: his or her complete name, and a driver's license or
19 identification card number.

20 (h) The producer and facility manager shall prepare an annual
21 event and security plan and schedule that shall include, at a
22 minimum, the following:

23 (1) The type of shows or events including, but not limited to,
24 antique or general firearms.

25 (2) The estimated number of vendors offering firearms for sale
26 or display.

27 (3) The estimated number of attendees.

28 (4) The number of entrances and exits at the gun show or
29 event site.

30 (5) The location, dates, and times of the shows or events.

31 (6) The contact person and telephone number for both the
32 producer and the facility.

33 (7) The number of sworn peace officers employed by the
34 producer or the facilities manager who will be present at the
35 show or event.

36 (8) The number of nonsworn security personnel employed by
37 the producer or the facility's manager who will be present at the
38 show or event.

39 (i) The annual event and security plan shall be submitted by
40 either the producer or the facility's manager to the Department of

1 Justice and the law enforcement agency with jurisdiction over the
2 facility. Not later than 15 days prior to the commencement of the
3 gun show or event, the producer shall submit to the department,
4 the law enforcement agency with jurisdiction over the facility
5 site, and the facility's manager a revised event and security plan
6 if significant changes have been made since the annual plan was
7 submitted, including a revised list of vendors that the producer
8 knows, or reasonably should know, will be renting tables, space,
9 or otherwise participating in the gun show or event. The event
10 and security plan shall be approved by the facility's manager
11 prior to the event or show after consultation with the law
12 enforcement agency with jurisdiction over the facility. No gun
13 show or event shall commence unless the requirements of this
14 subdivision are met.

15 (j) The producer shall be responsible for informing prospective
16 gun show vendors of the requirements of this section and of
17 Section 12083.7 that apply to vendors.

18 (k) The producer shall, within seven calendar days of the
19 commencement of the show or event, but not later than noon on
20 Friday for a show or event held on a weekend, submit a list of all
21 prospective vendors and designated firearms transfer agents who
22 are licensed firearms dealers to the Department of Justice for the
23 purpose of determining whether these prospective vendors and
24 designated firearms transfer agents possess valid licenses and are
25 thus eligible to participate as licensed dealers at the show or
26 event. The department shall examine its records and if it
27 determines that a dealer's license is not valid, it shall notify the
28 show or event producer of that fact prior to the commencement
29 of the show or event.

30 (l) If a licensed firearms dealer fails to cooperate with a
31 producer or fails to comply with the applicable requirements of
32 this section or Section 12083.7, that person shall not be allowed
33 to participate in that show or event.

34 (m) If a producer fails to comply with subdivision (j) or (k),
35 the gun show or event shall not commence until those
36 requirements are met.

37 (n) All producers shall have written contracts with all gun
38 show vendors selling firearms at the show or event.

(o) The producer shall post, in a readily visible location at each public entrance to the show, signage, containing, but not limited to, the following notices:

(1) This gun show follows all federal, state, and local firearms and weapons laws without exception.

(2) All firearms carried onto the premises by members of the public will be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker will be attached to the firearm prior to the person being allowed admittance to the show.

(3) No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.

(4) All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.

(5) Persons possessing firearms on this facility must have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined in Section 830.

(p) The show producer shall post, in a readily visible location at each entrance to the parking lot at the show, signage that states: "The transfer of firearms on the parking lot of this facility is a crime."

(q) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to Section 12071 to the maximum extent practicable.

SEC. 18. Section 12071.1 is added to the Penal Code, to read:

12071.1. (a) Except as provided in subdivisions (b) and (c), the business of a licensee shall be conducted only in the buildings designated in the license. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(b) A person licensed pursuant to Section 12071 may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person

1 conducting business pursuant to this subdivision shall be entitled
2 to conduct business as authorized herein at any gun show or
3 event in the state without regard to the jurisdiction within this
4 state that issued the license pursuant to Section 12071, provided
5 the person complies with all applicable laws, including, but not
6 limited to, the waiting period specified in Section 12071.2, and
7 all applicable local laws, regulations, and fees, if any. A person
8 conducting business pursuant to this subdivision shall publicly
9 display his or her license issued pursuant to Section 12071, or a
10 facsimile thereof, at any gun show or event, as specified in this
11 subparagraph.

12 (c) A person licensed pursuant to Section 12071 may engage
13 in the sale and transfer of firearms other than handguns, at events
14 specified in subdivision (g) of Section 12078, subject to the
15 prohibitions and restrictions contained in that subdivision. A
16 person licensed pursuant to Section 12071 also may accept
17 delivery of firearms other than handguns, outside the building
18 designated in the license, provided the firearm is being donated
19 for the purpose of sale or transfer at an auction or similar event
20 specified in subdivision (g) of Section 12078.

21 (d) The firearm may be delivered to the purchaser, transferee,
22 or person being loaned the firearm at one of the following places:

23 (1) The building designated in the license.

24 (2) The places specified in subdivision (b) or (c).

25 (3) The place of residence of, the fixed place of business of, or
26 on private property owned or lawfully possessed by, the
27 purchaser, transferee, or person being loaned the firearm.

28 (e) No handgun or imitation thereof capable of being
29 concealed upon the person, or placard advertising the sale or
30 other transfer thereof, shall be displayed in any part of the
31 premises licensed pursuant to Section 12071 where it can readily
32 be seen from the outside.

33 (f) The licensee shall agree to and shall act properly and
34 promptly in processing firearms transactions pursuant to Section
35 12082.

36 (g) The licensee shall comply with Sections 12073, 12076, and
37 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
38 (f) of Section 12072, and subdivision (a) of Section 12316.

39 (h) The licensee shall offer to provide the purchaser or
40 transferee of a firearm, or person being loaned a firearm, with a

1 copy of the pamphlet described in Section 12080 and may add
2 the cost of the pamphlet, if any, to the sales price of the firearm.

3 (i) The licensee shall not commit an act of collusion as defined
4 in Section 12072.

5 (j) The licensee shall post conspicuously within the licensed
6 premises a detailed list of each of the following:

7 (1) All charges required by governmental agencies for
8 processing firearm transfers required by Sections 12076, 12082,
9 and 12806.

10 (2) All fees that the licensee charges pursuant to Sections
11 12082 and 12806.

12 (k) The licensee shall not misstate the amount of fees charged
13 by a governmental agency pursuant to Sections 12076, 12082,
14 and 12806.

15 (l) The licensee shall, upon the issuance or renewal of a
16 license, submit a copy of the same to the Department of Justice.

17 (m) (1) Firearms dealers may require any agent who handles,
18 sells, or delivers firearms to obtain and provide to the dealer a
19 certificate of eligibility from the department pursuant Section
20 12071. The agent or employee shall provide on the application,
21 the name and California firearms dealer number of the firearms
22 dealer with whom he or she is employed.

23 (2) The department shall notify the firearms dealer in the event
24 that the agent or employee who has a certificate of eligibility is
25 or becomes prohibited from possessing firearms.

26 (3) If the local jurisdiction requires a background check of the
27 agents or employees of the firearms dealer, the agent or
28 employee shall obtain a certificate of eligibility pursuant to
29 Section 12071.

30 (4) Nothing in this section shall be construed to preclude a
31 local jurisdiction from conducting an additional background
32 check pursuant to Section 11105 or prohibiting employment
33 based on criminal history that does not appear as part of
34 obtaining a certificate of eligibility, provided however, that the
35 local jurisdiction may not charge a fee for the additional criminal
36 history check.

37 (n) The licensee shall prohibit any agent who the licensee
38 knows or reasonably should know is within a class of persons
39 prohibited from possessing firearms pursuant to Section 12021 or
40 12021.1 of this code, or Section 8100 or 8103 of the Welfare and

1 Institutions Code, from coming into contact with any firearm that
2 is not secured and from accessing any key, combination, code, or
3 other means to open any of the locking devices described in
4 Section 12071.6 that are used to make the firearm inoperable.

5 (o) Nothing in this section shall be construed as preventing a
6 local government from enacting an ordinance imposing
7 additional conditions on licensees with regard to agents.

8 (p) For purposes of this section, an “agent” is an employee of
9 the licensee.

10 (q) A license granted pursuant to Section 12071 is subject to
11 forfeiture for a breach of any of the prohibitions and
12 requirements of this section.

13 SEC. 19. Section 12071.2 is added to the Penal Code, to read:

14 12071.2. (a) No firearm shall be delivered by a person
15 licensed pursuant to Section 12071 under any of the following
16 circumstances:

17 (1) Within 10 days of the application to purchase, or, after
18 notice by the department pursuant to subdivision (d) of Section
19 12076, within 10 days of the submission to the department of any
20 correction to the application, or within 10 days of the submission
21 to the department of any fee required pursuant to subdivision (e)
22 of Section 12076, whichever is later.

23 (2) Unless unloaded and securely wrapped or unloaded and in
24 a locked container.

25 (3) Unless the purchaser, transferee, or person being loaned
26 the firearm presents clear evidence of his or her identity and age
27 to the dealer.

28 (4) As used in this article, “clear evidence of his or her identity
29 and age” means either a valid California driver’s license, or a
30 valid California identification card issued by the Department of
31 Motor Vehicles.

32 (b) No firearm shall be delivered by a person licensed pursuant
33 to Section 12071 whenever the dealer is notified by the
34 Department of Justice that the person is in a prohibited class
35 described in Section 12021 or 12021.1 of this code, or Section
36 8100 or 8103 of the Welfare and Institutions Code. The dealer
37 shall make available to the person in the prohibited class a
38 prohibited notice and transfer form, provided by the department,
39 stating that the person is prohibited from owning or possessing a

1 firearm, and that the person may obtain from the department the
2 reason for the prohibition.

3 (c) No dealer may deliver a handgun unless the person
4 receiving the handgun presents to the dealer a valid handgun
5 safety certificate. The firearms dealer shall retain a photocopy of
6 the handgun safety certificate as proof of compliance with this
7 requirement.

8 (d) No handgun may be delivered unless the purchaser,
9 transferee, or person being loaned the firearm presents
10 documentation indicating that he or she is a California resident.
11 Satisfactory documentation shall include a utility bill from within
12 the last three months, a residential lease, a property deed, or
13 military permanent duty station orders indicating assignment
14 within this state, or other evidence of residency as permitted by
15 the Department of Justice. The firearms dealer shall retain a
16 photocopy of the documentation as proof of compliance with this
17 requirement.

18 (e) A license granted pursuant to Section 12071 is subject to
19 forfeiture for a breach of any of the prohibitions and
20 requirements of this section.

21 SEC. 20. Section 12071.3 is added to the Penal Code, to read:

22 12071.3. (a) Except as authorized by the department, no
23 firearms dealer may deliver a handgun unless the recipient
24 performs a safe handling demonstration with that handgun. The
25 demonstration shall commence with the handgun unloaded and
26 locked with the firearm safety device with which it is required to
27 be delivered, if applicable. While maintaining muzzle awareness,
28 that is, the firearm is pointed in a safe direction, preferably down
29 at the ground, and trigger discipline, that is, the trigger finger is
30 outside of the trigger guard and alongside of the handgun frame,
31 at all times, the handgun recipient shall correctly and safely
32 perform the following:

33 (1) If the handgun is a semiautomatic pistol:

34 (A) Remove the magazine.

35 (B) Lock the slide back. If the model of firearm does not allow
36 the slide to be locked back, pull the slide back, visually and
37 physically check the chamber to ensure that it is clear.

38 (C) Visually and physically inspect the chamber, to ensure that
39 the handgun is unloaded.

1 (D) Remove the firearm safety device, if applicable. If the
2 firearm safety device prevents any of the previous steps, remove
3 the firearm safety device during the appropriate step.

4 (E) Load one bright orange, red, or other readily identifiable
5 dummy round into the magazine. If no readily identifiable
6 dummy round is available, an empty cartridge casing with an
7 empty primer pocket may be used.

8 (F) Insert the magazine into the magazine well of the firearm.

9 (G) Manipulate the slide release or pull back and release the
10 slide.

11 (H) Remove the magazine.

12 (I) Visually inspect the chamber to reveal that a round can be
13 chambered with the magazine removed.

14 (J) Lock the slide back to eject the bright orange, red, or other
15 readily identifiable dummy round. If the handgun is of a model
16 that does not allow the slide to be locked back, pull the slide back
17 and physically check the chamber to ensure that the chamber is
18 clear. If no readily identifiable dummy round is available, an
19 empty cartridge casing with an empty primer pocket may be
20 used.

21 (K) Apply the safety, if applicable.

22 (L) Apply the firearm safety device, if applicable. This
23 requirement shall not apply to an Olympic competition pistol if
24 no firearms safety device, other than a cable lock that the
25 department has determined would damage the barrel of the pistol,
26 has been approved for the pistol, and the pistol is either listed in
27 paragraph (2) of subdivision (h) of Section 12132 or is subject to
28 paragraph (3) of subdivision (h) of Section 12132.

29 (2) If the handgun is a double-action revolver:

30 (A) Open the cylinder.

31 (B) Visually and physically inspect each chamber, to ensure
32 that the revolver is unloaded.

33 (C) Remove the firearm safety device. If the firearm safety
34 device prevents any of the previous steps, remove the firearm
35 safety device during the appropriate step.

36 (D) While maintaining muzzle awareness and trigger
37 discipline, load one bright orange, red, or other readily
38 identifiable dummy round into a chamber of the cylinder and
39 rotate the cylinder so that the round is in the next-to-fire position.

- 1 If no readily identifiable dummy round is available, an empty
2 cartridge casing with an empty primer pocket may be used.
- 3 (E) Close the cylinder.
- 4 (F) Open the cylinder and eject the round.
- 5 (G) Visually and physically inspect each chamber to ensure
6 that the revolver is unloaded.
- 7 (H) Apply the firearm safety device, if applicable. This
8 requirement shall not apply to an Olympic competition pistol if
9 no firearms safety device, other than a cable lock that the
10 department has determined would damage the barrel of the pistol,
11 has been approved for the pistol, and the pistol is either listed in
12 paragraph (2) of subdivision (h) of Section 12132 or is subject to
13 paragraph (3) of subdivision (h) of Section 12132.
- 14 (3) If the handgun is a single-action revolver:
- 15 (A) Open the loading gate.
- 16 (B) Visually and physically inspect each chamber, to ensure
17 that the revolver is unloaded.
- 18 (C) Remove the firearm safety device required to be sold with
19 the handgun. If the firearm safety device prevents any of the
20 previous steps, remove the firearm safety device during the
21 appropriate step.
- 22 (D) Load one bright orange, red, or other readily identifiable
23 dummy round into a chamber of the cylinder, close the loading
24 gate and rotate the cylinder so that the round is in the next-to-fire
25 position. If no readily identifiable dummy round is available, an
26 empty cartridge casing with an empty primer pocket may be
27 used.
- 28 (E) Open the loading gate and unload the revolver.
- 29 (F) Visually and physically inspect each chamber to ensure
30 that the revolver is unloaded.
- 31 (G) Apply the firearm safety device, if applicable. This
32 requirement shall not apply to an Olympic competition pistol if
33 no firearms safety device, other than a cable lock that the
34 department has determined would damage the barrel of the pistol,
35 has been approved for the pistol, and the pistol is either listed in
36 paragraph (2) of subdivision (h) of Section 12132 or is subject to
37 paragraph (3) of subdivision (h) of Section 12132.
- 38 (b) The recipient shall receive instruction regarding how to
39 render that handgun safe in the event of a jam.

1 (c) The firearms dealer shall sign and date an affidavit stating
2 that the requirements of subdivision (a) have been met. The
3 firearms dealer shall additionally obtain the signature of the
4 handgun purchaser on the same affidavit. The firearms dealer
5 shall retain the original affidavit as proof of compliance with this
6 requirement.

7 (d) The recipient shall perform the safe handling
8 demonstration for a department certified instructor.

9 (e) No demonstration shall be required if the dealer is
10 returning the handgun to the owner of the handgun.

11 (f) Department certified instructors who may administer the
12 safe handling demonstration shall meet the requirements set forth
13 in subdivision (j) of Section 12804.

14 (g) The persons who are exempt from the requirements of
15 subdivision (b) of Section 12801, pursuant to Section 12807, are
16 also exempt from performing the safe handling demonstration.

17 (h) A license granted pursuant to Section 12071 is subject to
18 forfeiture for a breach of any of the prohibitions and
19 requirements of this section.

20 SEC. 21. Section 12071.4 of the Penal Code, as added by
21 Section 3 of Chapter 247 of the Statutes of 1999, is amended and
22 renumbered to read:

23 12083.7 (a) This section shall be known, and may be cited
24 as, the Gun Show Enforcement and Security Act of 2000.

25 (b) All gun show or event vendors shall certify in writing to
26 the producer that they:

27 (1) Will not display, possess, or offer for sale any firearms,
28 knives, or weapons for which possession or sale is prohibited.

29 (2) Acknowledge that they are responsible for knowing and
30 complying with all applicable federal, state, and local laws
31 dealing with the possession and transfer of firearms.

32 (3) Will not engage in activities that incite or encourage hate
33 crimes.

34 (4) Will process all transfers of firearms through licensed
35 firearms dealers as required by state law.

36 (5) Will verify that all firearms in their possession at the show
37 or event will be unloaded, and that the firearms will be secured in
38 a manner that prevents them from being operated except for brief
39 periods when the mechanical condition of a firearm is being
40 demonstrated to a prospective buyer.

1 (6) Have complied with the requirements of subdivision (e).

2 (7) Will not display or possess black powder, or offer it for
3 sale.

4 (c) All firearms transfers at the gun show or event shall be in
5 accordance with applicable state and federal laws.

6 (d) Except for purposes of showing ammunition to a
7 prospective buyer, ammunition at a gun show or event may be
8 displayed only in closed original factory boxes or other closed
9 containers.

10 (e) Prior to the commencement of a gun show or event, each
11 vendor shall provide to the producer all of the following
12 information relative to the vendor, the vendor's employees, and
13 other persons, compensated or not, who will be working or
14 otherwise providing services to the public at the vendor's display
15 space if firearms manufactured after December 31, 1898, will be
16 offered for sale:

17 (1) His or her complete name.

18 (2) His or her driver's license or state-issued identification
19 card number.

20 (3) His or her date of birth.

21 The producer shall keep the information at the show's or
22 event's onsite headquarters for the duration of the show or event,
23 and at the producer's regular place of business for two weeks
24 after the conclusion of the show or event, and shall make the
25 information available upon request to any sworn peace officer for
26 purposes of the officer's official law enforcement duties.

27 (f) Vendors and employees of vendors shall wear name tags
28 indicating first and last name.

29 (g) No person at a gun show or event, other than security
30 personnel or sworn peace officers, shall possess at the same time
31 both a firearm and ammunition that is designed to be fired in the
32 firearm. Vendors having those items at the show for sale or
33 exhibition are exempt from this prohibition.

34 (h) No member of the public who is under the age of 18 years
35 shall be admitted to, or be permitted to remain at, a gun show or
36 event unless accompanied by a parent or legal guardian. Any
37 member of the public who is under the age of 18 shall be
38 accompanied by his or her parent, grandparent, or legal guardian
39 while at the show or event.

1 (i) Persons other than show or event security personnel, sworn
2 peace officers, or vendors, who bring firearms onto the gun show
3 or event premises shall sign in ink the tag or sticker that is
4 attached to the firearm prior to being allowed admittance to the
5 show or event, as provided for in subdivision (j).

6 (j) All firearms carried onto the premises of a gun show or
7 event by members of the public shall be checked, cleared of any
8 ammunition, secured in a manner that prevents them from being
9 operated, and an identification tag or sticker shall be attached to
10 the firearm, prior to the person being allowed admittance to the
11 show. The identification tag or sticker shall state that all firearms
12 transfers between private parties at the show or event shall be
13 conducted through a licensed dealer in accordance with
14 applicable state and federal laws. The person possessing the
15 firearm shall complete the following information on the tag
16 before it is attached to the firearm:

17 (1) The gun owner's signature.

18 (2) The gun owner's printed name.

19 (3) The identification number from the gun owner's
20 government-issued photo identification.

21 (k) All persons possessing firearms at the gun show or event
22 shall have in his or her immediate possession, government-issued
23 photo identification, and display it upon request, to any security
24 officer, or any peace officer.

25 (l) Unless otherwise specified, a first violation of this section
26 is an infraction. Any second or subsequent violation is a
27 misdemeanor. Any person who commits an act which he or she
28 knows to be a violation of this section is guilty of a misdemeanor
29 for a first offense.

30 SEC. 22. Section 12071.4 is added to the Penal Code, to read:

31 12071.4. (a) The licensee shall post conspicuously within the
32 licensed premises the following warnings in block letters not less
33 than one inch in height:

34 (1) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
35 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
36 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
37 USES IT, RESULTING IN INJURY OR DEATH, OR
38 CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY
39 OF A MISDEMEANOR OR A FELONY UNLESS YOU
40 STORED THE FIREARM IN A LOCKED CONTAINER OR

1 LOCKED THE FIREARM WITH A LOCKING DEVICE, TO
2 KEEP IT FROM TEMPORARILY FUNCTIONING.”

3 (2) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
4 FIREARM CAPABLE OF BEING CONCEALED UPON THE
5 PERSON, WITHIN ANY PREMISES UNDER YOUR
6 CUSTODY OR CONTROL, AND A PERSON UNDER 18
7 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND
8 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A
9 MISDEMEANOR, UNLESS YOU STORED THE FIREARM
10 IN A LOCKED CONTAINER, OR LOCKED THE FIREARM
11 WITH A LOCKING DEVICE, TO KEEP IT FROM
12 TEMPORARILY FUNCTIONING.”

13 (3) “IF YOU KEEP ANY FIREARM WITHIN ANY
14 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
15 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
16 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
17 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY
18 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE
19 OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS
20 YOU STORED THE FIREARM IN A LOCKED CONTAINER,
21 OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

22 (4) “DISCHARGING FIREARMS IN POORLY
23 VENTILATED AREAS, CLEANING FIREARMS, OR
24 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
25 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
26 DEFECTS, REPRODUCTIVE HARM, AND OTHER
27 SERIOUS PHYSICAL INJURY. HAVE ADEQUATE
28 VENTILATION AT ALL TIMES. WASH HANDS
29 THOROUGHLY AFTER EXPOSURE.”

30 (5) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
31 DO NOT TAKE PHYSICAL POSSESSION OF THE
32 FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF
33 WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL
34 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
35 TO GO THROUGH THE BACKGROUND CHECK PROCESS
36 A SECOND TIME IN ORDER TO TAKE PHYSICAL
37 POSSESSION OF THAT FIREARM.”

38 (6) “NO PERSON SHALL MAKE AN APPLICATION TO
39 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
40 OTHER FIREARM CAPABLE OF BEING CONCEALED

1 UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND
2 NO DELIVERY SHALL BE MADE TO ANY PERSON WHO
3 HAS MADE AN APPLICATION TO PURCHASE MORE
4 THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM
5 CAPABLE OF BEING CONCEALED UPON THE PERSON
6 WITHIN ANY 30-DAY PERIOD.”

7 (b) A license granted pursuant to Section 12071 is subject to
8 forfeiture for a breach of any of the requirements of this section.

9 SEC. 23. Section 12071.5 is added to the Penal Code, to read:

10 12071.5. (a) The licensee shall maintain and make available
11 for inspection during business hours to any peace officer,
12 authorized local law enforcement employee, or Department of
13 Justice employee designated by the Attorney General, upon the
14 presentation of proper identification, a firearms transaction
15 record.

16 (b) On the date of receipt, the licensee shall report to the
17 Department of Justice in a format prescribed by the department
18 the acquisition by the licensee of the ownership of a handgun.

19 (c) The provisions of this section shall not apply to any of the
20 following transactions:

21 (1) A transaction subject to the provisions of subdivision (n) of
22 Section 12078.

23 (2) The dealer acquired the firearm from a wholesaler.

24 (3) The dealer is also licensed as a secondhand dealer pursuant
25 to Article 4 (commencing with Section 21625) of Chapter 9 of
26 Division 8 of the Business and Professions Code.

27 (4) The dealer acquired the firearm from a person who is
28 licensed as a manufacturer or importer to engage in those
29 activities pursuant to Chapter 44 (commencing with Section 921)
30 of Title 18 of the United States Code and any regulations issued
31 pursuant thereto.

32 (5) The dealer acquired the firearm from a person who resides
33 outside this state who is licensed pursuant to Chapter 44
34 (commencing with Section 921) of Title 18 of the United States
35 Code and any regulations issued pursuant thereto.

36 (d) The licensee shall forward in a format prescribed by the
37 Department of Justice, information as required by the department
38 on any firearm that is not delivered within the time period set
39 forth in Section 478.102 (c) of Title 27 of the Code of Federal
40 Regulations.

1 (e) For purposes of subdivision (a):

2 (1) A “firearms transaction record” is a record containing the
3 same information referred to in subdivision (a) of Section
4 478.124, Section 478.124a, and subdivision (e) of Section
5 478.125 of Title 27 of the Code of Federal Regulations.

6 (2) A licensee shall be in compliance with the provisions of
7 subdivision (a) if he or she maintains and makes available for
8 inspection during business hours to any peace officer, authorized
9 local law enforcement employee, or Department of Justice
10 employee designated by the Attorney General, upon the
11 presentation of proper identification, the bound book containing
12 the same information referred to in Section 478.124a and
13 subdivision (e) of Section 478.125 of Title 27 of the Code of
14 Federal Regulations and the records referred to in subdivision (a)
15 of Section 478.124 of Title 27 of the Code of Federal
16 Regulations.

17 (f) A license granted pursuant to Section 12071 is subject to
18 forfeiture for a breach of any of the prohibitions and
19 requirements of this section.

20 SEC. 24. Section 12071.6 is added to the Penal Code, to read:

21 12071.6. (a) All firearms that are in the inventory of the
22 licensee shall be kept within the licensed location. The licensee
23 shall report the loss or theft of any firearm that is merchandise of
24 the licensee, any firearm that the licensee takes possession of
25 pursuant to Section 12082, or any firearm kept at the licensee’s
26 place of business within 48 hours of discovery to the Department
27 of Justice and the appropriate law enforcement agency in the city,
28 county, or city and county where the licensee’s business premises
29 are located.

30 (b) Any time when the licensee is not open for business, all
31 inventory firearms shall be stored in the licensed location. All
32 firearms shall be secured using one of the following methods as
33 to each particular firearm:

34 (1) Store the firearm in a secure facility that is a part of, or that
35 constitutes, the licensee’s business premises.

36 (2) Secure the firearm with a hardened steel rod or cable of at
37 least one-eighth inch in diameter through the trigger guard of the
38 firearm. The steel rod or cable shall be secured with a hardened
39 steel lock that has a shackle. The lock and shackle shall be
40 protected or shielded from the use of a bolt cutter and the rod or

1 cable shall be anchored in a manner that prevents the removal of
2 the firearm from the premises.

3 (3) Store the firearm in a locked fireproof safe or vault in the
4 licensee's business premises.

5 (c) The licensing authority in an unincorporated area of a
6 county or within a city may impose security requirements that are
7 more strict or are at a higher standard than those specified in
8 subdivision (i).

9 (d) Subdivisions (b) and (c) shall not apply to a licensee
10 organized as a nonprofit public benefit or mutual benefit
11 corporation organized pursuant to Part 2 (commencing with
12 Section 5110) or Part 3 (commencing with Section 7110) of
13 Division 2 of the Corporations Code, if both of the following
14 conditions are satisfied:

15 (1) The nonprofit public benefit or mutual benefit corporation
16 obtained the dealer's license solely and exclusively to assist that
17 corporation or local chapters of that corporation in conducting
18 auctions or similar events at which firearms are auctioned off to
19 fund the activities of that corporation or the local chapters of the
20 corporation.

21 (2) The firearms are not handguns.

22 (e) For purposes of this section, the following definitions shall
23 apply:

24 (1) "Licensed premises," "licensed place of business,"
25 "licensee's place of business," or "licensee's business premises"
26 means the building designated in the license.

27 (2) "Secured" means a firearm that is made inoperable in one
28 or more of the following ways:

29 (A) The firearm is inoperable because it is secured by a
30 firearms safety device listed on the department's roster of
31 approved firearms safety devices pursuant to subdivision (d) of
32 Section 12088 of this chapter.

33 (B) The firearm is stored in a locked gun safe or long-gun safe
34 which meets the standards for department-approved gun safes set
35 forth in Section 12088.2.

36 (C) The firearm is stored in a distinct locked room or area in
37 the building that is used to store firearms that can only be
38 unlocked by a key, a combination, or similar means.

39 (D) The firearm is secured with a hardened steel rod or cable
40 that is at least one-eighth of an inch in diameter through the

1 trigger guard of the firearm. The steel rod or cable shall be
2 secured with a hardened steel lock that has a shackle. The lock
3 and shackle shall be protected or shielded from the use of a bolt
4 cutter and the rod or cable shall be anchored in a manner that
5 prevents the removal of the firearm from the premises.

6 (3) "Secure facility" means a building that meets all of the
7 following specifications:

8 (A) All perimeter doorways shall meet one of the following:

9 (i) A windowless steel security door equipped with both a
10 dead bolt and a doorknob lock.

11 (ii) A windowed metal door that is equipped with both a dead
12 bolt and a doorknob lock. If the window has an opening of five
13 inches or more measured in any direction, the window shall be
14 covered with steel bars of at least one-half inch diameter or metal
15 grating of at least nine gauge affixed to the exterior or interior of
16 the door.

17 (iii) A metal grate that is padlocked and affixed to the
18 licensee's premises independent of the door and doorframe.

19 (B) All windows are covered with steel bars.

20 (C) Heating, ventilating, air-conditioning, and service
21 openings are secured with steel bars, metal grating, or an alarm
22 system.

23 (D) Any metal grates have spaces no larger than six inches
24 wide measured in any direction.

25 (E) Any metal screens have spaces no larger than three inches
26 wide measured in any direction.

27 (F) All steel bars shall be no further than six inches apart.

28 (f) Upon written request from a licensee, the licensing
29 authority may grant an exemption from compliance with the
30 requirements of subdivision (b) if the licensee is unable to
31 comply with those requirements because of local ordinances,
32 covenants, lease conditions, or similar circumstances not under
33 the control of the licensee.

34 (g) A license granted pursuant to Section 12071 is subject to
35 forfeiture for a breach of any of the prohibitions and
36 requirements of this section.

37 SEC. 25. Section 12071.7 is added to the Penal Code, to read:

38 12071.7. (a) Except as otherwise provided in this section,
39 the Department of Justice shall keep a centralized list of all
40 persons licensed pursuant to Section 12071, and all persons who

1 have submitted information pursuant to subdivision (a) of
2 Section 12083. The department may remove from this list any
3 person who knowingly or with gross negligence violates this
4 article. Upon removal of a dealer from this list, notification shall
5 be provided to local law enforcement and licensing authorities in
6 the jurisdiction where the dealer's business is located.

7 (b) The department shall remove from the centralized list any
8 person whose federal firearms license has expired or has been
9 revoked.

10 (c) Information compiled from the list shall be made available,
11 upon request, for the following purposes only:

12 (1) For law enforcement purposes.

13 (2) When the information is requested by a person licensed
14 pursuant to Chapter 44 (commencing with Section 921) of Title
15 18 of the United States Code for determining the validity of the
16 license for firearm shipments.

17 (3) When information is requested by a person promoting,
18 sponsoring, operating, or otherwise organizing a show or event as
19 defined in Section 478.100 of Title 27 of the Code of Federal
20 Regulations, or its successor, who possesses a valid certificate of
21 eligibility issued pursuant to Section 12083.5, if that information
22 is requested by the person to determine the eligibility of a
23 prospective participant in a gun show or event to conduct
24 transactions as a firearms dealer pursuant to Section 12071.

25 (d) Information provided pursuant to paragraph (3) of
26 subdivision (c) shall be limited to information necessary to
27 corroborate an individual's current license status as being one of
28 the following:

29 (1) A person licensed pursuant to Section 12071.

30 (2) A person licensed pursuant to Chapter 44 (commencing
31 with Section 921) of Title 18 of the United States Code and who
32 is not subject to the requirement that he or she be licensed
33 pursuant to Section 12071.

34 (e) The department may inspect dealers to ensure compliance
35 with this article. The department may assess an annual fee, not to
36 exceed one hundred fifteen dollars (\$115), to cover the
37 reasonable cost of maintaining the list described in subdivision
38 (a), including the cost of inspections. Dealers whose place of
39 business is in a jurisdiction that has adopted an inspection
40 program to ensure compliance with firearms law shall be exempt

1 from that portion of the department's fee that relates to the cost
2 of inspections. The applicant is responsible for providing
3 evidence to the department that the jurisdiction in which the
4 business is located has the inspection program.

5 (f) The department shall maintain and make available upon
6 request information concerning the number of inspections
7 conducted and the amount of fees collected pursuant to
8 subdivision (e), a listing of exempted jurisdictions, as defined in
9 subdivision (e), the number of dealers removed from the
10 centralized list defined in subdivision (a), and the number of
11 dealers found to have violated this article with knowledge or
12 gross negligence.

13 (g) (1) For every verification inquiry made pursuant to
14 paragraph (1) of subdivision (f) of Section 12072, the department
15 shall determine whether the intended recipient possesses an
16 appropriate, valid license issued pursuant to Chapter 44
17 (commencing with Section 921) of Title 18 of the United States
18 Code and, if applicable, is properly licensed pursuant to this
19 section.

20 (2) If the intended recipient possesses an appropriate, valid
21 license issued pursuant to Chapter 44 (commencing with Section
22 921) of Title 18 of the United States Code, and if applicable, is
23 properly licensed pursuant to this section, the department shall
24 immediately provide a unique verification number to the
25 inquiring party.

26 (3) If the intended recipient does not possess an appropriate,
27 valid license issued pursuant to Chapter 44 (commencing with
28 Section 921) of Title 18 of the United States Code, or if
29 applicable, is not properly licensed pursuant to this section, the
30 department shall do all of the following:

31 (A) Immediately notify the inquiring party of that fact.

32 (B) Within 24 hours, notify the chief law enforcement officer
33 of the jurisdiction where the address on the federal firearms
34 license about which the inquiry was made is located, and notify
35 an appropriate employee of the federal Bureau of Alcohol,
36 Tobacco and Firearms of the denied verification.

37 SEC. 26. Section 12072 of the Penal Code is amended to
38 read:

39 12072. (a) (1) No person, corporation, or firm shall
40 knowingly supply, deliver, sell, or give possession or control of a

1 firearm to any person within any of the classes prohibited by
2 Section 12021 or 12021.1.

3 (2) No person, corporation, or dealer shall sell, supply, deliver,
4 or give possession or control of a firearm to any person whom he
5 or she has cause to believe to be within any of the classes
6 prohibited by Section 12021 or 12021.1 of this code or Section
7 8100 or 8103 of the Welfare and Institutions Code.

8 (3) (A) No person, corporation, or firm shall sell, loan, or
9 transfer a firearm to a minor, nor sell a handgun to an individual
10 under 21 years of age.

11 (B) Subparagraph (A) shall not apply to or affect those
12 circumstances set forth in subdivision (p) of Section 12078.

13 (4) No person, corporation, or dealer shall sell, loan, or
14 transfer a firearm to any person whom he or she knows or has
15 cause to believe is not the actual purchaser or transferee of the
16 firearm, or to any person who is not the person actually being
17 loaned the firearm, if the person, corporation, or dealer has either
18 of the following:

19 (A) Knowledge that the firearm is to be subsequently loaned,
20 sold, or transferred to avoid the provisions of subdivision (c) or
21 (d).

22 (B) Knowledge that the firearm is to be subsequently loaned,
23 sold, or transferred to avoid the requirements of any exemption to
24 the provisions of subdivision (c) or (d).

25 (5) No person, corporation, or dealer shall acquire a firearm
26 for the purpose of selling, transferring, or loaning the firearm, if
27 the person, corporation, or dealer has either of the following:

28 (A) In the case of a dealer, intent to violate subdivision (b) or
29 (c).

30 (B) In any other case, intent to avoid either of the following:

31 (i) The provisions of subdivision (d).

32 (ii) The requirements of any exemption to the provisions of
33 subdivision (d).

34 (6) The dealer shall comply with the provisions of
35 subdivisions (b) and (c) of Section 12071.5.

36 (7) The dealer shall comply with the provisions of subdivision
37 (d) of Section 12071.5.

38 (8) No person shall sell or otherwise transfer his or her
39 ownership in a pistol, revolver, or other firearm capable of being
40 concealed upon the person unless the firearm bears either:

1 (A) The name of the manufacturer, the manufacturer's make
2 or model, and a manufacturer's serial number assigned to that
3 firearm.

4 (B) The identification number or mark assigned to the firearm
5 by the Department of Justice pursuant to Section 12092.

6 (9) (A) No person shall make an application to purchase more
7 than one pistol, revolver, or other firearm capable of being
8 concealed upon the person within any 30-day period.

9 (B) Subparagraph (A) shall not apply to any of the following:

10 (i) Any law enforcement agency.

11 (ii) Any agency duly authorized to perform law enforcement
12 duties.

13 (iii) Any state or local correctional facility.

14 (iv) Any private security company licensed to do business in
15 California.

16 (v) Any person who is properly identified as a full-time paid
17 peace officer, as defined in Chapter 4.5 (commencing with
18 Section 830) of Title 3 of Part 2, and who is authorized to, and
19 does carry a firearm during the course and scope of his or her
20 employment as a peace officer.

21 (vi) Any motion picture, television, or video production
22 company or entertainment or theatrical company whose
23 production by its nature involves the use of a firearm.

24 (vii) Any person who may, pursuant to Section 12078, claim
25 an exemption from the waiting period set forth in subdivision (c)
26 of this section.

27 (viii) Any transaction conducted through a licensed firearms
28 dealer pursuant to Section 12082.

29 (ix) Any person who is licensed as a collector pursuant to
30 Chapter 44 (commencing with Section 921) of Title 18 of the
31 United States Code and the regulations issued pursuant thereto
32 and who has a current certificate of eligibility issued to him or
33 her by the Department of Justice pursuant to Section 12071.

34 (x) The exchange of a pistol, revolver, or other firearm capable
35 of being concealed upon the person where the dealer purchased
36 that firearm from the person seeking the exchange within the
37 30-day period immediately preceding the date of exchange or
38 replacement.

39 (xi) The replacement of a pistol, revolver, or other firearm
40 capable of being concealed upon the person when the person's

1 pistol, revolver, or other firearm capable of being concealed upon
2 the person was lost or stolen, and the person reported that firearm
3 lost or stolen prior to the completion of the application to
4 purchase to any local law enforcement agency of the city, county,
5 or city and county in which he or she resides.

6 (xii) The return of any pistol, revolver, or other firearm
7 capable of being concealed upon the person to its owner.

8 (b) No person licensed under Section 12071 shall supply, sell,
9 deliver, or give possession or control of a pistol, revolver, or
10 firearm capable of being concealed upon the person to any
11 person under the age of 21 years or any other firearm to a person
12 under the age of 18 years.

13 (c) No dealer, whether or not acting pursuant to Section
14 12082, shall deliver a firearm to a person, as follows:

15 (1) Within 10 days of the application to purchase, or, after
16 notice by the department pursuant to subdivision (d) of Section
17 12076, within 10 days of the submission to the department of any
18 correction to the application, or within 10 days of the submission
19 to the department of any fee required pursuant to subdivision (e)
20 of Section 12076, whichever is later.

21 (2) Unless unloaded and securely wrapped or unloaded and in
22 a locked container.

23 (3) Unless the purchaser, transferee, or person being loaned
24 the firearm presents clear evidence of his or her identity and age,
25 as defined in Section 12071.2, to the dealer.

26 (4) Whenever the dealer is notified by the Department of
27 Justice that the person is in a prohibited class described in
28 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
29 the Welfare and Institutions Code.

30 (5) (A) Commencing April 1, 1994, and until January 1, 2003,
31 no pistol, revolver, or other firearm capable of being concealed
32 upon the person shall be delivered unless the purchaser,
33 transferee, or person being loaned the firearm presents to the
34 dealer a basic firearms safety certificate.

35 (B) Commencing January 1, 2003, no handgun shall be
36 delivered unless the purchaser, transferee, or person being loaned
37 the handgun presents a handgun safety certificate to the dealer.

38 (6) No pistol, revolver, or other firearm capable of being
39 concealed upon the person shall be delivered whenever the dealer
40 is notified by the Department of Justice that within the preceding

1 30-day period the purchaser has made another application to
2 purchase a pistol, revolver, or other firearm capable of being
3 concealed upon the person and that the previous application to
4 purchase involved none of the entities specified in subparagraph
5 (B) of paragraph (9) of subdivision (a).

6 (d) Where neither party to the transaction holds a dealer's
7 license issued pursuant to Section 12071, the parties to the
8 transaction shall complete the sale, loan, or transfer of that
9 firearm through a licensed firearms dealer pursuant to Section
10 12082.

11 (e) No person may commit an act of collusion relating to
12 Article 8 (commencing with Section 12800) of Chapter 6. For
13 purposes of this section and Section 12071.1, collusion may be
14 proven by any one of the following factors:

15 (1) Answering a test applicant's questions during an objective
16 test relating to firearms safety.

17 (2) Knowingly grading the examination falsely.

18 (3) Providing an advance copy of the test to an applicant.

19 (4) Taking or allowing another person to take the basic
20 firearms safety course for one who is the applicant for a basic
21 firearms safety certificate or a handgun safety certificate.

22 (5) Allowing another to take the objective test for the
23 applicant, purchaser, or transferee.

24 (6) Using or allowing another to use one's identification, proof
25 of residency, or thumbprint.

26 (7) Allowing others to give unauthorized assistance during the
27 examination.

28 (8) Reference to unauthorized materials during the
29 examination and cheating by the applicant.

30 (9) Providing originals or photocopies of the objective test, or
31 any version thereof, to any person other than as authorized by the
32 department.

33 (f) (1) No person who is licensed pursuant to Chapter 44
34 (commencing with Section 921) of Title 18 of the United States
35 Code shall deliver, sell, or transfer a firearm to a person who is
36 licensed pursuant to Chapter 44 (commencing with Section 921)
37 of Title 18 of the United States Code and whose licensed
38 premises are located in this state unless:

39 (A) Prior to January 1, 2005, the intended recipient does one
40 of the following:

1 (i) Presents proof of licensure pursuant to Section 12071 to
2 that person.

3 (ii) Presents proof that he or she is exempt from licensure
4 under Section 12071 to that person, in which case the person also
5 shall present proof that the transaction is also exempt from the
6 provisions of subdivision (d).

7 (B) Commencing January 1, 2005, one of the following is
8 satisfied:

9 (i) The person intending to deliver, sell, or transfer the
10 firearms obtains from the department, prior to delivery, a unique
11 verification number pursuant to Section 12071.7. The person
12 intending to deliver, sell, or transfer firearms shall provide the
13 unique verification number to the recipient along with the
14 firearms upon delivery, in a manner to be determined by the
15 department.

16 (ii) The intended recipient presents proof that he or she is
17 exempt from licensure under Section 12071 to that person, in
18 which case the person also shall present proof that the transaction
19 is also exempt from the provisions of subdivision (d).

20 (2) (A) On or after January 1, 1998, within 60 days of
21 bringing a pistol, revolver, or other firearm capable of being
22 concealed upon the person into this state, a personal handgun
23 importer shall do one of the following:

24 (i) Forward by prepaid mail or deliver in person to the
25 Department of Justice, a report prescribed by the department
26 including information concerning that individual and a
27 description of the firearm in question.

28 (ii) Sell or transfer the firearm in accordance with the
29 provisions of subdivision (d) or in accordance with the provisions
30 of an exemption from subdivision (d).

31 (iii) Sell or transfer the firearm to a dealer licensed pursuant to
32 Section 12071.

33 (iv) Sell or transfer the firearm to a sheriff or police
34 department.

35 (B) If the personal handgun importer sells or transfers the
36 pistol, revolver, or other firearm capable of being concealed upon
37 the person pursuant to subdivision (d) of Section 12072 and the
38 sale or transfer cannot be completed by the dealer to the
39 purchaser or transferee, and the firearm can be returned to the

1 personal handgun importer, the personal handgun importer shall
2 have complied with the provisions of this paragraph.

3 (C) The provisions of this paragraph are cumulative and shall
4 not be construed as restricting the application of any other law.
5 However, an act or omission punishable in different ways by this
6 section and different provisions of the Penal Code shall not be
7 punished under more than one provision.

8 (D) (i) On and after January 1, 1998, the department shall
9 conduct a public education and notification program regarding
10 this paragraph to ensure a high degree of publicity of the
11 provisions of this paragraph.

12 (ii) As part of the public education and notification program
13 described in this subparagraph, the department shall do all of the
14 following:

15 (I) Work in conjunction with the Department of Motor
16 Vehicles to ensure that any person who is subject to this
17 paragraph is advised of the provisions of this paragraph, and
18 provided with blank copies of the report described in clause (i) of
19 subparagraph (A) at the time that person applies for a California
20 driver's license or registers his or her motor vehicle in
21 accordance with the Vehicle Code.

22 (II) Make the reports referred to in clause (i) of subparagraph
23 (A) available to dealers licensed pursuant to Section 12071.

24 (III) Make the reports referred to in clause (i) of subparagraph
25 (A) available to law enforcement agencies.

26 (IV) Make persons subject to the provisions of this paragraph
27 aware of the fact that reports referred to in clause (i) of
28 subparagraph (A) may be completed at either the licensed
29 premises of dealers licensed pursuant to Section 12071 or at law
30 enforcement agencies, that it is advisable to do so for the sake of
31 accuracy and completeness of the reports, that prior to
32 transporting a pistol, revolver, or other firearm capable of being
33 concealed upon the person to a law enforcement agency in order
34 to comply with subparagraph (A), the person should give prior
35 notice to the law enforcement agency that he or she is doing so,
36 and that in any event, the pistol, revolver, or other firearm
37 capable of being concealed upon the person should be
38 transported unloaded and in a locked container.

39 (iii) Any costs incurred by the department to implement this
40 paragraph shall be absorbed by the department within its existing

1 budget and the fees in the Dealers' Record of Sale Special
2 Account allocated for implementation of this subparagraph
3 pursuant to Section 12076.

4 (3) Where a person who is licensed as a collector pursuant to
5 Chapter 44 (commencing with Section 921) of Title 18 of the
6 United States Code and the regulations issued pursuant thereto,
7 whose licensed premises are within this state, acquires a pistol,
8 revolver, or other firearm capable of being concealed upon the
9 person that is a curio or relic, as defined in Section 478.11 of
10 Title 27 of the Code of Federal Regulations, outside of this state,
11 takes actual possession of that firearm outside of this state
12 pursuant to the provisions of subsection (j) of Section 923 of
13 Title 18 of the United States Code, as amended by Public Law
14 104-208, and transports that firearm into this state, within five
15 days of that licensed collector transporting that firearm into this
16 state, he or she shall report to the department in a format
17 prescribed by the department his or her acquisition of that
18 firearm.

19 (4) (A) It is the intent of the Legislature that a violation of
20 paragraph (2) or (3) shall not constitute a "continuing offense"
21 and the statute of limitations for commencing a prosecution for a
22 violation of paragraph (2) or (3) commences on the date that the
23 applicable grace period specified in paragraph (2) or (3) expires.

24 (B) Paragraphs (2) and (3) shall not apply to a person who
25 reports his or her ownership of a pistol, revolver, or other firearm
26 capable of being concealed upon the person after the applicable
27 grace period specified in paragraph (2) or (3) expires if evidence
28 of that violation arises only as the result of the person submitting
29 the report described in paragraph (2) or (3).

30 (g) (1) Except as provided in paragraph (2), (3), or (5), a
31 violation of this section is a misdemeanor.

32 (2) If any of the following circumstances apply, a violation of
33 this section is punishable by imprisonment in the state prison for
34 two, three, or four years.

35 (A) If the violation is of paragraph (1) of subdivision (a).

36 (B) If the defendant has a prior conviction of violating the
37 provisions, other than paragraph (9) of subdivision (a), of this
38 section or former Section 12100 of this code or Section 8101 of
39 the Welfare and Institutions Code.

1 (C) If the defendant has a prior conviction of violating any
2 offense specified in subdivision (b) of Section 12021.1 or of a
3 violation of Section 12020, 12220, or 12520, or of former
4 Section 12560.

5 (D) If the defendant is in a prohibited class described in
6 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
7 the Welfare and Institutions Code.

8 (E) A violation of this section by a person who actively
9 participates in a “criminal street gang” as defined in Section
10 186.22.

11 (F) A violation of subdivision (b) involving the delivery of any
12 firearm to a person who the dealer knows, or should know, is a
13 minor.

14 (3) If any of the following circumstances apply, a violation of
15 this section shall be punished by imprisonment in a county jail
16 not exceeding one year or in the state prison, or by a fine not to
17 exceed one thousand dollars (\$1,000), or by both that fine and
18 imprisonment.

19 (A) A violation of paragraph (2), (4), or (5) of subdivision (a).

20 (B) A violation of paragraph (3) of subdivision (a) involving
21 the sale, loan, or transfer of a pistol, revolver, or other firearm
22 capable of being concealed upon the person to a minor.

23 (C) A violation of subdivision (b) involving the delivery of a
24 pistol, revolver, or other firearm capable of being concealed upon
25 the person.

26 (D) A violation of paragraph (1), (3), (4), (5), or (6) of
27 subdivision (c) involving a pistol, revolver, or other firearm
28 capable of being concealed upon the person.

29 (E) A violation of subdivision (d) involving a pistol, revolver,
30 or other firearm capable of being concealed upon the person.

31 (F) A violation of subdivision (e).

32 (4) If both of the following circumstances apply, an additional
33 term of imprisonment in the state prison for one, two, or three
34 years shall be imposed in addition and consecutive to the
35 sentence prescribed.

36 (A) A violation of paragraph (2) of subdivision (a) or
37 subdivision (b).

38 (B) The firearm transferred in violation of paragraph (2) of
39 subdivision (a) or subdivision (b) is used in the subsequent

1 commission of a felony for which a conviction is obtained and
2 the prescribed sentence is imposed.

3 (5) (A) A first violation of paragraph (9) of subdivision (a) is
4 an infraction punishable by a fine of fifty dollars (\$50).

5 (B) A second violation of paragraph (9) of subdivision (a) is
6 an infraction punishable by a fine of one hundred dollars (\$100).

7 (C) A third or subsequent violation of paragraph (9) of
8 subdivision (a) is a misdemeanor.

9 (D) For purposes of this paragraph each application to
10 purchase a pistol, revolver, or other firearm capable of being
11 concealed upon the person in violation of paragraph (9) of
12 subdivision (a) shall be deemed a separate offense.

13 SEC. 27. Section 12076 of the Penal Code is amended to
14 read:

15 12076. (a) (1) Before January 1, 1998, the Department of
16 Justice shall determine the method by which a dealer shall submit
17 firearm purchaser information to the department and the
18 information shall be in one of the following formats:

19 (A) Submission of the register described in Section 12077.

20 (B) Electronic or telephonic transfer of the information
21 contained in the register described in Section 12077.

22 (2) On or after January 1, 1998, electronic or telephonic
23 transfer, including voice or facsimile transmission, shall be the
24 exclusive means by which purchaser information is transmitted
25 to the department.

26 (3) On or after January 1, 2003, except as permitted by the
27 department, electronic transfer shall be the exclusive means by
28 which information is transmitted to the department. Telephonic
29 transfer shall not be permitted for information regarding sales of
30 any firearms.

31 (b) (1) Where the register is used, the purchaser of any
32 firearm shall be required to present clear evidence of his or her
33 identity and age, as defined in Section 12071.2, to the dealer, and
34 the dealer shall require him or her to sign his or her current legal
35 name and affix his or her residence address and date of birth to
36 the register in quadruplicate. The salesperson shall affix his or
37 her signature to the register in quadruplicate as a witness to the
38 signature and identification of the purchaser. Any person
39 furnishing a fictitious name or address or knowingly furnishing
40 any incorrect information or knowingly omitting any information

1 required to be provided for the register and any person violating
2 any provision of this section is guilty of a misdemeanor.

3 (2) The original of the register shall be retained by the dealer
4 in consecutive order. Each book of 50 originals shall become the
5 permanent register of transactions that shall be retained for not
6 less than three years from the date of the last transaction and
7 shall be available for the inspection of any peace officer,
8 Department of Justice employee designated by the Attorney
9 General, or agent of the federal Bureau of Alcohol, Tobacco, and
10 Firearms upon the presentation of proper identification, but no
11 information shall be compiled therefrom regarding the purchasers
12 or other transferees of firearms that are not pistols, revolvers, or
13 other firearms capable of being concealed upon the person.

14 (3) Two copies of the original sheet of the register, on the date
15 of the application to purchase, shall be placed in the mail,
16 postage prepaid, and properly addressed to the Department of
17 Justice in Sacramento.

18 (4) If requested, a photocopy of the original shall be provided
19 to the purchaser by the dealer.

20 (5) If the transaction is one conducted pursuant to Section
21 12082, a photocopy of the original shall be provided to the seller
22 by the dealer, upon request.

23 (c) (1) Where the electronic or telephonic transfer of applicant
24 information is used, the purchaser shall be required to present
25 clear evidence of his or her identity and age, as defined in
26 Section 12071.2, to the dealer, and the dealer shall require him or
27 her to sign his or her current legal name to the record of
28 electronic or telephonic transfer. The salesperson shall affix his
29 or her signature to the record of electronic or telephonic transfer
30 as a witness to the signature and identification of the purchaser.
31 Any person furnishing a fictitious name or address or knowingly
32 furnishing any incorrect information or knowingly omitting any
33 information required to be provided for the electronic or
34 telephonic transfer and any person violating any provision of this
35 section is guilty of a misdemeanor.

36 (2) The record of applicant information shall be transmitted to
37 the Department of Justice in Sacramento by electronic or
38 telephonic transfer on the date of the application to purchase.

39 (3) The original of each record of electronic or telephonic
40 transfer shall be retained by the dealer in consecutive order. Each

1 original shall become the permanent record of the transaction that
2 shall be retained for not less than three years from the date of the
3 last transaction and shall be provided for the inspection of any
4 peace officer, Department of Justice employee designated by the
5 Attorney General, or agent of the federal Bureau of Alcohol,
6 Tobacco, and Firearms, upon the presentation of proper
7 identification, but no information shall be compiled therefrom
8 regarding the purchasers or other transferees of firearms that are
9 not pistols, revolvers, or other firearms capable of being
10 concealed upon the person.

11 (4) If requested, a copy of the record of electronic or
12 telephonic transfer shall be provided to the purchaser by the
13 dealer.

14 (5) If the transaction is one conducted pursuant to Section
15 12082, a copy shall be provided to the seller by the dealer, upon
16 request.

17 (d) (1) The department shall examine its records, as well as
18 those records that it is authorized to request from the State
19 Department of Mental Health pursuant to Section 8104 of the
20 Welfare and Institutions Code, in order to determine if the
21 purchaser is a person described in Section 12021, 12021.1, or
22 subparagraph (A) of paragraph (9) of subdivision (a) of Section
23 12072 of this code or Section 8100 or 8103 of the Welfare and
24 Institutions Code.

25 (2) To the extent that funding is available, the Department of
26 Justice may participate in the National Instant Criminal
27 Background Check System (NICS), as described in subsection (t)
28 of Section 922 of Title 18 of the United States Code, and, if that
29 participation is implemented, shall notify the dealer and the chief
30 of the police department of the city or city and county in which
31 the sale was made, or if the sale was made in a district in which
32 there is no municipal police department, the sheriff of the county
33 in which the sale was made, that the purchaser is a person
34 prohibited from acquiring a firearm under federal law.

35 (3) If the department determines that the purchaser is a person
36 described in Section 12021, 12021.1, or subparagraph (A) of
37 paragraph (9) of subdivision (a) of Section 12072 of this code or
38 Section 8100 or 8103 of the Welfare and Institutions Code, it
39 shall immediately notify the dealer and the chief of the police
40 department of the city or city and county in which the sale was

1 made, or if the sale was made in a district in which there is no
2 municipal police department, the sheriff of the county in which
3 the sale was made, of that fact.

4 (4) If the department determines that the copies of the register
5 submitted to it pursuant to paragraph (3) of subdivision (b)
6 contain any blank spaces or inaccurate, illegible, or incomplete
7 information, preventing identification of the purchaser or the
8 pistol, revolver, or other firearm to be purchased, or if any fee
9 required pursuant to subdivision (e) is not submitted by the
10 dealer in conjunction with submission of copies of the register,
11 the department may notify the dealer of that fact. Upon
12 notification by the department, the dealer shall submit corrected
13 copies of the register to the department, or shall submit any fee
14 required pursuant to subdivision (e), or both, as appropriate and,
15 if notification by the department is received by the dealer at any
16 time prior to delivery of the firearm to be purchased, the dealer
17 shall withhold delivery until the conclusion of the waiting period
18 described in Sections 12071.2 and 12072.

19 (5) If the department determines that the information
20 transmitted to it pursuant to subdivision (c) contains inaccurate or
21 incomplete information preventing identification of the purchaser
22 or the pistol, revolver, or other firearm capable of being
23 concealed upon the person to be purchased, or if the fee required
24 pursuant to subdivision (e) is not transmitted by the dealer in
25 conjunction with transmission of the electronic or telephonic
26 record, the department may notify the dealer of that fact. Upon
27 notification by the department, the dealer shall transmit
28 corrections to the record of electronic or telephonic transfer to
29 the department, or shall transmit any fee required pursuant to
30 subdivision (e), or both, as appropriate, and if notification by the
31 department is received by the dealer at any time prior to delivery
32 of the firearm to be purchased, the dealer shall withhold delivery
33 until the conclusion of the waiting period described in Sections
34 12071.2 and 12072.

35 (e) The Department of Justice may require the dealer to charge
36 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
37 except that the fee may be increased at a rate not to exceed any
38 increase in the California Consumer Price Index as compiled and
39 reported by the California Department of Industrial Relations.
40 The fee shall be no more than is necessary to fund the following:

1 (1) (A) The department for the cost of furnishing this
2 information.

3 (B) The department for the cost of meeting its obligations
4 under paragraph (2) of subdivision (b) of Section 8100 of the
5 Welfare and Institutions Code.

6 (2) Local mental health facilities for state-mandated local costs
7 resulting from the reporting requirements imposed by Section
8 8103 of the Welfare and Institutions Code.

9 (3) The State Department of Mental Health for the costs
10 resulting from the requirements imposed by Section 8104 of the
11 Welfare and Institutions Code.

12 (4) Local mental hospitals, sanitariums, and institutions for
13 state-mandated local costs resulting from the reporting
14 requirements imposed by Section 8105 of the Welfare and
15 Institutions Code.

16 (5) Local law enforcement agencies for state-mandated local
17 costs resulting from the notification requirements set forth in
18 subdivision (a) of Section 6385 of the Family Code.

19 (6) Local law enforcement agencies for state-mandated local
20 costs resulting from the notification requirements set forth in
21 subdivision (c) of Section 8105 of the Welfare and Institutions
22 Code.

23 (7) For the actual costs associated with the electronic or
24 telephonic transfer of information pursuant to subdivision (c).

25 (8) The Department of Food and Agriculture for the costs
26 resulting from the notification provisions set forth in Section
27 5343.5 of the Food and Agricultural Code.

28 (9) The department for the costs associated with subparagraph
29 (D) of paragraph (2) of subdivision (f) of Section 12072.

30 (10) The department for the costs associated with funding
31 Department of Justice firearms-related regulatory and
32 enforcement activities related to the sale, purchase, loan, or
33 transfer of firearms pursuant to this chapter.

34 The fee established pursuant to this subdivision shall not
35 exceed the sum of the actual processing costs of the department,
36 the estimated reasonable costs of the local mental health facilities
37 for complying with the reporting requirements imposed by
38 paragraph (2) of this subdivision, the costs of the State
39 Department of Mental Health for complying with the
40 requirements imposed by paragraph (3) of this subdivision, the

1 estimated reasonable costs of local mental hospitals, sanitariums,
2 and institutions for complying with the reporting requirements
3 imposed by paragraph (4) of this subdivision, the estimated
4 reasonable costs of local law enforcement agencies for
5 complying with the notification requirements set forth in
6 subdivision (a) of Section 6385 of the Family Code, the
7 estimated reasonable costs of local law enforcement agencies for
8 complying with the notification requirements set forth in
9 subdivision (c) of Section 8105 of the Welfare and Institutions
10 Code imposed by paragraph (6) of this subdivision, the estimated
11 reasonable costs of the Department of Food and Agriculture for
12 the costs resulting from the notification provisions set forth in
13 Section 5343.5 of the Food and Agricultural Code, the estimated
14 reasonable costs of the department for the costs associated with
15 subparagraph (D) of paragraph (2) of subdivision (f) of Section
16 12072, and the estimated reasonable costs of department
17 firearms-related regulatory and enforcement activities related to
18 the sale, purchase, loan, or transfer of firearms pursuant to this
19 chapter.

20 (f) (1) The Department of Justice may charge a fee sufficient
21 to reimburse it for each of the following but not to exceed
22 fourteen dollars (\$14), except that the fee may be increased at a
23 rate not to exceed any increase in the California Consumer Price
24 Index as compiled and reported by the California Department of
25 Industrial Relations:

26 (A) For the actual costs associated with the preparation, sale,
27 processing, and filing of forms or reports required or utilized
28 pursuant to Section 12078 .

29 (B) For the actual processing costs associated with the
30 submission of a Dealers' Record of Sale to the department.

31 (C) For the actual costs associated with the preparation, sale,
32 processing, and filing of reports utilized pursuant to subdivision
33 (I) of Section 12078 or subdivision (b) of Section 12071.5, or
34 clause (i) of subparagraph (A) of paragraph (2) of subdivision (f)
35 of Section 12072, or paragraph (3) of subdivision (f) of Section
36 12072, ~~or subdivision (u) of Section 12078.~~

37 (D) For the actual costs associated with the electronic or
38 telephonic transfer of information pursuant to subdivision (c).

39 (2) If the department charges a fee pursuant to subparagraph
40 (B) of paragraph (1) of this subdivision, it shall be charged in the

1 same amount to all categories of transaction that are within that
2 subparagraph.

3 (3) Any costs incurred by the Department of Justice to
4 implement this subdivision shall be reimbursed from fees
5 collected and charged pursuant to this subdivision. No fees shall
6 be charged to the dealer pursuant to subdivision (e) for
7 implementing this subdivision.

8 (g) All money received by the department pursuant to this
9 section shall be deposited in the Dealers' Record of Sale Special
10 Account of the General Fund, which is hereby created, to be
11 available, upon appropriation by the Legislature, for expenditure
12 by the department to offset the costs incurred pursuant to this
13 section, paragraph (1) and subparagraph (D) of paragraph (2) of
14 subdivision (f) of Section 12072, Sections 12083 and 12099,
15 subdivision (c) of Section 12131, Sections 12234, 12289, and
16 12289.5, and subdivisions (f) and (g) of Section 12305.

17 (h) Where the electronic or telephonic transfer of applicant
18 information is used, the department shall establish a system to be
19 used for the submission of the fees described in subdivision (e) to
20 the department.

21 (i) (1) Only one fee shall be charged pursuant to this section
22 for a single transaction on the same date for the sale of any
23 number of firearms that are not pistols, revolvers, or other
24 firearms capable of being concealed upon the person or for the
25 taking of possession of those firearms.

26 (2) In a single transaction on the same date for the delivery of
27 any number of firearms that are pistols, revolvers, or other
28 firearms capable of being concealed upon the person, the
29 department shall charge a reduced fee pursuant to this section for
30 the second and subsequent firearms that are part of that
31 transaction.

32 (j) Only one fee shall be charged pursuant to this section for a
33 single transaction on the same date for taking title or possession
34 of any number of firearms pursuant to subdivision (b) of Section
35 12071.5 or subdivision (c) or (i) of Section 12078.

36 (k) Whenever the Department of Justice acts pursuant to this
37 section as it pertains to firearms other than pistols, revolvers, or
38 other firearms capable of being concealed upon the person, the
39 department's acts or omissions shall be deemed to be
40 discretionary within the meaning of the California Tort Claims

1 Act pursuant to Division 3.6 (commencing with Section 810) of
2 Title 1 of the Government Code.

3 (I) As used in this section, the following definitions apply:

4 (1) "Purchaser" means the purchaser or transferee of a firearm
5 or a person being loaned a firearm.

6 (2) "Purchase" means the purchase, loan, or transfer of a
7 firearm.

8 (3) "Sale" means the sale, loan, or transfer of a firearm.

9 (4) "Seller" means, if the transaction is being conducted
10 pursuant to Section 12082, the person selling, loaning, or
11 transferring the firearm.

12 SEC. 28. Section 12078 of the Penal Code is amended to
13 read:

14 12078. (a) (1) The waiting periods described in Sections
15 12071.2 and 12072 shall not apply to deliveries, transfers, or sales
16 of firearms made to persons properly identified as full-time paid
17 peace officers as defined in Chapter 4.5 (commencing with
18 Section 830) of Title 3 of Part 2, provided that the peace officers
19 are authorized by their employer to carry firearms while in the
20 performance of their duties. Proper identification is defined as
21 verifiable written certification from the head of the agency by
22 which the purchaser or transferee is employed, identifying the
23 purchaser or transferee as a peace officer who is authorized to
24 carry firearms while in the performance of his or her duties, and
25 authorizing the purchase or transfer. The certification shall be
26 delivered to the dealer at the time of purchase or transfer and the
27 purchaser or transferee shall identify himself or herself as the
28 person authorized in the certification. The dealer shall keep the
29 certification with the record of sale. On the date that the delivery,
30 sale, or transfer is made, the dealer delivering the firearm shall
31 transmit to the Department of Justice an electronic or telephonic
32 report of the transaction as is indicated in subdivision (b) or (c)
33 of Section 12077.

34 (2) Subdivision (b) of Section 12801 and the preceding
35 provisions of this article do not apply to deliveries, transfers, or
36 sales of firearms made to authorized law enforcement
37 representatives of cities, counties, cities and counties, or state or
38 federal governments for exclusive use by those governmental
39 agencies if, prior to the delivery, transfer, or sale of these
40 firearms, written authorization from the head of the agency

1 authorizing the transaction is presented to the person from whom
2 the purchase, delivery, or transfer is being made. Proper written
3 authorization is defined as verifiable written certification from
4 the head of the agency by which the purchaser or transferee is
5 employed, identifying the employee as an individual authorized
6 to conduct the transaction, and authorizing the transaction for the
7 exclusive use of the agency by which he or she is employed.
8 Within 10 days of the date a handgun is acquired by the agency,
9 a record of the same shall be entered as an institutional weapon
10 into the Automated Firearms System (AFS) via the California
11 Law Enforcement Telecommunications System (CLETS) by the
12 law enforcement or state agency. Those agencies without access
13 to AFS shall arrange with the sheriff of the county in which the
14 agency is located to input this information via this system.

15 (3) Subdivision (b) of Section 12801 and the preceding
16 provisions of this article do not apply to the loan of a firearm
17 made by an authorized law enforcement representative of a city,
18 county, or city and county, or the state or federal government to a
19 peace officer employed by that agency and authorized to carry a
20 firearm for the carrying and use of that firearm by that peace
21 officer in the course and scope of his or her duties.

22 (4) Subdivision (b) of Section 12801 and the preceding
23 provisions of this article do not apply to the delivery, sale, or
24 transfer of a firearm by a law enforcement agency to a peace
25 officer pursuant to Section 10334 of the Public Contract Code.
26 Within 10 days of the date that a handgun is sold, delivered, or
27 transferred pursuant to Section 10334 of the Public Contract
28 Code to that peace officer, the name of the officer and the make,
29 model, serial number, and other identifying characteristics of the
30 firearm being sold, transferred, or delivered shall be entered into
31 the Automated Firearms System (AFS) via the California Law
32 Enforcement Telecommunications System (CLETS) by the law
33 enforcement or state agency that sold, transferred, or delivered
34 the firearm. Those agencies without access to AFS shall arrange
35 with the sheriff of the county in which the agency is located to
36 input this information via this system.

37 (5) Subdivision (b) of Section 12801 and the preceding
38 provisions of this article do not apply to the delivery, sale, or
39 transfer of a firearm by a law enforcement agency to a retiring
40 peace officer who is authorized to carry a firearm pursuant to

1 Section 12027.1. Within 10 days of the date that a handgun is
2 sold, delivered, or transferred to that retiring peace officer, the
3 name of the officer and the make, model, serial number, and
4 other identifying characteristics of the firearm being sold,
5 transferred, or delivered shall be entered into the Automated
6 Firearms System (AFS) via the California Law Enforcement
7 Telecommunications System (CLETS) by the law enforcement or
8 state agency that sold, transferred, or delivered the firearm.
9 Those agencies without access to AFS shall arrange with the
10 sheriff of the county in which the agency is located to input this
11 information via this system.

12 (6) Subdivision (d) of Section 12072 and subdivision (b) of
13 Section 12801 do not apply to sales, deliveries, or transfers of
14 firearms to authorized representatives of cities, cities and
15 counties, counties, or state or federal governments for those
16 governmental agencies where the entity is acquiring the weapon
17 as part of an authorized, voluntary program where the entity is
18 buying or receiving weapons from private individuals. Any
19 weapons acquired pursuant to this paragraph shall be disposed of
20 pursuant to the applicable provisions of Section 12028 or 12032.

21 (7) Subdivision (d) of Section 12072 and subdivision (b) of
22 Section 12801 shall not apply to the sale, loan, delivery, or
23 transfer of a firearm made by an authorized law enforcement
24 representative of a city, county, city and county, state, or the
25 federal government to any public or private nonprofit historical
26 society, museum, or institutional collection or the purchase or
27 receipt of that firearm by that public or private nonprofit
28 historical society, museum, or institutional collection if all of the
29 following conditions are met:

30 (A) The entity receiving the firearm is open to the public.

31 (B) The firearm prior to delivery is deactivated or rendered
32 inoperable.

33 (C) The firearm is not subject to Section 12028, 12028.5,
34 12030, or 12032.

35 (D) The firearm is not prohibited by other provisions of law
36 from being sold, delivered, or transferred to the public at large.

37 (E) Prior to delivery, the entity receiving the firearm submits a
38 written statement to the law enforcement representative stating
39 that the firearm will not be restored to operating condition, and
40 will either remain with that entity, or if subsequently disposed of,

1 will be transferred in accordance with the applicable provisions
2 of this article and, if applicable, Section 12801.

3 (F) Within 10 days of the date that the firearm is sold, loaned,
4 delivered, or transferred to that entity, the name of the
5 government entity delivering the firearm, and the make, model,
6 serial number, and other identifying characteristics of the firearm
7 and the name of the person authorized by the entity to take
8 possession of the firearm shall be reported to the department in a
9 manner prescribed by the department.

10 (G) In the event of a change in the status of the designated
11 representative, the entity shall notify the department of a new
12 representative within 30 days.

13 (8) Subdivision (d) of Section 12072 and subdivision (b) of
14 Section 12801 shall not apply to the sale, loan, delivery, or
15 transfer of a firearm made by any person other than a
16 representative of an authorized law enforcement agency to any
17 public or private nonprofit historical society, museum, or
18 institutional collection if all of the following conditions are met:

19 (A) The entity receiving the firearm is open to the public.

20 (B) The firearm is deactivated or rendered inoperable prior to
21 delivery.

22 (C) The firearm is not of a type prohibited from being sold,
23 delivered, or transferred to the public.

24 (D) Prior to delivery, the entity receiving the firearm submits a
25 written statement to the person selling, loaning, or transferring
26 the firearm stating that the firearm will not be restored to
27 operating condition, and will either remain with that entity, or if
28 subsequently disposed of, will be transferred in accordance with
29 the applicable, provisions of this article and, if applicable Section
30 12801.

31 (E) If title to a handgun is being transferred to the public or
32 private nonprofit historical society, museum, or institutional
33 collection, then the designated representative of that public or
34 private historical society, museum or institutional collection
35 within 30 days of taking possession of that handgun, shall
36 forward by prepaid mail or deliver in person to the Department of
37 Justice, a single report signed by both parties to the transaction,
38 that includes information identifying the person representing that
39 public or private historical society, museum, or institutional
40 collection, how title was obtained and from whom, and a

1 description of the firearm in question, along with a copy of the
2 written statement referred to in subparagraph (D). The report
3 forms that are to be completed pursuant to this paragraph shall be
4 provided by the Department of Justice.

5 (F) In the event of a change in the status of the designated
6 representative, the entity shall notify the department of a new
7 representative within 30 days.

8 (b) (1) Sections 12071, 12071.1, 12071.2, 12071.3, 12071.5,
9 subdivisions (c) and (d) of Section 12072, and subdivision (b) of
10 Section 12801 shall not apply to deliveries, sales, or transfers of
11 firearms between or to importers and manufacturers of firearms
12 licensed to engage in that business pursuant to Chapter 44
13 (commencing with Section 921) of Title 18 of the United States
14 Code and the regulations issued pursuant thereto.

15 (2) Subdivision (b) of Section 12801 shall not apply to the
16 delivery, sale, or transfer of a handgun to a person licensed
17 pursuant to Section 12071, where the licensee is receiving the
18 handgun in the course and scope of his or her activities as a
19 person licensed pursuant to Section 12071.

20 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
21 infrequent transfer of a firearm that is not a handgun by gift,
22 bequest, intestate succession, or other means by one individual to
23 another if both individuals are members of the same immediate
24 family.

25 (2) Subdivision (d) of Section 12072 shall not apply to the
26 infrequent transfer of a handgun by gift, bequest, intestate
27 succession, or other means by one individual to another if both
28 individuals are members of the same immediate family and all of
29 the following conditions are met:

30 (A) The person to whom the firearm is transferred shall,
31 within 30 days of taking possession of the firearm, forward by
32 prepaid mail or deliver in person to the Department of Justice, a
33 report that includes information concerning the individual taking
34 possession of the firearm, how title was obtained and from
35 whom, and a description of the firearm in question. The report
36 forms that individuals complete pursuant to this paragraph shall
37 be provided to them by the Department of Justice.

38 (B) The person taking title to the firearm shall first obtain a
39 handgun safety certificate.

1 (C) The person receiving the firearm is 18 years of age or
2 older.

3 (3) As used in this subdivision, “immediate family member”
4 means any one of the following relationships:

5 (A) Parent and child.

6 (B) Grandparent and grandchild.

7 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
8 infrequent loan of firearms between persons who are personally
9 known to each other for any lawful purpose, if the loan does not
10 exceed 30 days in duration and, when the firearm is a handgun,
11 commencing January 1, 2003, the individual being loaned the
12 handgun has a valid handgun safety certificate.

13 (2) Subdivision (d) of Section 12072, and subdivision (b) of
14 Section 12801 shall not apply to the loan of a firearm where all
15 of the following conditions exist:

16 (A) The person loaning the firearm is at all times within the
17 presence of the person being loaned the firearm.

18 (B) The loan is for a lawful purpose.

19 (C) The loan does not exceed three days in duration.

20 (D) The individual receiving the firearm is not prohibited from
21 owning or possessing a firearm pursuant to Section 12021 or
22 12021.1 of this code, or by Section 8100 or 8103 of the Welfare
23 and Institutions Code.

24 (E) The person loaning the firearm is 18 years of age or older.

25 (F) The person being loaned the firearm is 18 years of age or
26 older.

27 (e) Sections 12071, 12071.1, 12071.2, 12071.3, 12071.5,
28 subdivisions (c) and (d) of Section 12072, and subdivision (b) of
29 Section 12801 shall not apply to the delivery of a firearm to a
30 gunsmith for service or repair, or to the return of the firearm to
31 its owner by the gunsmith.

32 (f) Subdivision (d) of Section 12072 and subdivision (b) of
33 Section 12801 shall not apply to the sale, delivery, or transfer of
34 firearms by persons who reside in this state to persons who reside
35 outside this state who are licensed pursuant to Chapter 44
36 (commencing with Section 921) of Title 18 of the United States
37 Code and the regulations issued pursuant thereto, if the sale,
38 delivery, or transfer is in accordance with Chapter 44
39 (commencing with Section 921) of Title 18 of the United States
40 Code and the regulations issued pursuant thereto.

1 (g) (1) Subdivision (d) of Section 12072 shall not apply to the
2 infrequent sale or transfer of a firearm, other than a handgun, at
3 auctions or similar events conducted by nonprofit mutual or
4 public benefit corporations organized pursuant to the
5 Corporations Code.

6 As used in this paragraph, the term “infrequent” shall not be
7 construed to prohibit different local chapters of the same
8 nonprofit corporation from conducting auctions or similar events,
9 provided the individual local chapter conducts the auctions or
10 similar events infrequently. It is the intent of the Legislature that
11 different local chapters, representing different localities, be
12 entitled to invoke the exemption created by this paragraph,
13 notwithstanding the frequency with which other chapters of the
14 same nonprofit corporation may conduct auctions or similar
15 events.

16 (2) Subdivision (d) of Section 12072 shall not apply to the
17 transfer of a firearm other than a handgun, if the firearm is
18 donated for an auction or similar event described in paragraph (1)
19 and the firearm is delivered to the nonprofit corporation
20 immediately preceding, or contemporaneous with, the auction or
21 similar event.

22 (3) The waiting period described in Sections 12071.2 and
23 12072 shall not apply to a dealer who delivers a firearm other
24 than a handgun at an auction or similar event described in
25 paragraph (1), as authorized by Section 12071.1. Within two
26 business days of completion of the application to purchase, the
27 dealer shall forward by prepaid mail to the Department of Justice
28 a report of the same as is indicated in subdivision (c) of Section
29 12077. If the electronic or telephonic transfer of applicant
30 information is used, within two business days of completion of
31 the application to purchase, the dealer delivering the firearm shall
32 transmit to the Department of Justice an electronic or telephonic
33 report of the same as is indicated in subdivision (c) of Section
34 12077.

35 (h) Subdivision (d) of Section 12072 and subdivision (b) of
36 Section 12801 shall not apply to the loan of a firearm to a person
37 18 years of age or older for the purposes of shooting at targets if
38 the loan occurs on the premises of a target facility that holds a
39 business or regulatory license or on the premises of any club or
40 organization organized for the purposes of practicing shooting at

1 targets upon established ranges, whether public or private, if the
2 firearm is at all times kept within the premises of the target range
3 or on the premises of the club or organization.

4 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
5 person who takes title or possession of a firearm that is not a
6 handgun by operation of law if the person is not prohibited by
7 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
8 the Welfare and Institutions Code from possessing firearms.

9 (2) Subdivision (d) of Section 12072 shall not apply to a
10 person who takes title or possession of a handgun by operation of
11 law if the person is not prohibited by Section 12021 or 12021.1
12 of this code or Section 8100 or 8103 of the Welfare and
13 Institutions Code from possessing firearms and all of the
14 following conditions are met:

15 (A) If the person taking title or possession is neither a levying
16 officer as defined in Section 481.140, 511.060, or 680.210 of the
17 Code of Civil Procedure, nor a person who is receiving that
18 firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2)
19 of subdivision-~~(v)~~ (u), the person shall, within 30 days of taking
20 possession, forward by prepaid mail or deliver in person to the
21 Department of Justice, a report of information concerning the
22 individual taking possession of the firearm, how title or
23 possession was obtained and from whom, and a description of the
24 firearm in question. The reports that individuals complete
25 pursuant to this paragraph shall be provided to them by the
26 department.

27 (B) If the person taking title or possession is receiving the
28 firearm pursuant to subparagraph (G) of paragraph (2) of
29 subdivision-~~(v)~~ (u), the person shall do both of the following:

30 (i) Within 30 days of taking possession, forward by prepaid
31 mail or deliver in person to the department, a report of
32 information concerning the individual taking possession of the
33 firearm, how title or possession was obtained and from whom,
34 and a description of the firearm in question. The reports that
35 individuals complete pursuant to this paragraph shall be provided
36 to them by the department.

37 (ii) Prior to taking title or possession of the firearm, the person
38 shall obtain a handgun safety certificate.

39 (C) Where the person receiving title or possession of the
40 handgun is a person described in subparagraph (I) of paragraph

(2) of subdivision ~~(v)~~ (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(D) Where the person receiving title or possession of the handgun is a person described in subparagraph (J) of paragraph (2) of subdivision ~~(v)~~ (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun to the person referred to in this subparagraph unless, prior to the delivery of the same, the person presents proof to the agency that he or she is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12021.3, 12028, 12028.5, or 12030.

1 (k) Sections 12071, 12071.1, 12071.2, 12071.3, 12071.5,
2 subdivision (c) of Section 12072, and subdivision (b) of Section
3 12801 shall not apply to any of the following:

4 (1) The delivery, sale, or transfer of unloaded firearms that are
5 not handguns by a dealer to another dealer upon proof of
6 compliance with the requirements of paragraph (1) of subdivision
7 (f) of Section 12072.

8 (2) The delivery, sale, or transfer of unloaded firearms by
9 dealers to persons who reside outside this state who are licensed
10 pursuant to Chapter 44 (commencing with Section 921) of Title
11 18 of the United States Code and the regulations issued pursuant
12 thereto.

13 (3) The delivery, sale, or transfer of unloaded firearms to a
14 wholesaler if the firearms are being returned to the wholesaler
15 and are intended as merchandise in the wholesaler's business.

16 (4) The delivery, sale, or transfer of unloaded firearms by one
17 dealer to another dealer if the firearms are intended as
18 merchandise in the receiving dealer's business upon proof of
19 compliance with the requirements of paragraph (1) of subdivision
20 (f) of Section 12072.

21 (5) The delivery, sale, or transfer of an unloaded firearm that
22 is not a handgun by a dealer to himself or herself.

23 (6) The loan of an unloaded firearm by a dealer who also
24 operates a target facility that holds a business or regulatory
25 license on the premises of the building designated in the license
26 or whose building designated in the license is on the premises of
27 any club or organization organized for the purposes of practicing
28 shooting at targets upon established ranges, whether public or
29 private, to a person at that target facility or that club or
30 organization, if the firearm is at all times kept within the
31 premises of the target range or on the premises of the club or
32 organization.

33 (l) A person who is exempt from subdivision (d) of Section
34 12072 or is otherwise not required by law to report his or her
35 acquisition, ownership, or disposal of a handgun or who moves
36 out of this state with his or her handgun may submit a report of
37 the same to the Department of Justice in a format prescribed by
38 the department.

39 (m) Subdivision (d) of Section 12072 and subdivision (b) of
40 Section 12801 shall not apply to the delivery, sale, or transfer of

1 unloaded firearms to a wholesaler as merchandise in the
2 wholesaler's business by manufacturers or importers licensed to
3 engage in that business pursuant to Chapter 44 (commencing
4 with Section 921) of Title 18 of the United States Code and the
5 regulations issued pursuant thereto, or by another wholesaler, if
6 the delivery, sale, or transfer is made in accordance with Chapter
7 44 (commencing with Section 921) of Title 18 of the United
8 States Code.

9 (n) (1) The waiting period described in Section 12071.2 or
10 12072 shall not apply to the delivery, sale, or transfer of a
11 handgun by a dealer in either of the following situations:

12 (A) The dealer is delivering the firearm to another dealer and
13 it is not intended as merchandise in the receiving dealer's
14 business.

15 (B) The dealer is delivering the firearm to himself or herself
16 and it is not intended as merchandise in his or her business.

17 (2) In order for this subdivision to apply, both of the following
18 shall occur:

19 (A) If the dealer is receiving the firearm from another dealer,
20 the dealer receiving the firearm shall present proof to the dealer
21 delivering the firearm that he or she is licensed pursuant to
22 Section 12071 by complying with paragraph (1) of subdivision
23 (f) of Section 12072.

24 (B) Whether the dealer is delivering, selling, or transferring
25 the firearm to himself or herself or to another dealer, on the date
26 that the application to purchase is completed, the dealer
27 delivering the firearm shall forward by prepaid mail to the
28 Department of Justice a report of the same and the type of
29 information concerning the purchaser or transferee as is indicated
30 in subdivision (b) of Section 12077. Where the electronic or
31 telephonic transfer of applicant information is used, on the date
32 that the application to purchase is completed, the dealer
33 delivering the firearm shall transmit an electronic or telephonic
34 report of the same and the type of information concerning the
35 purchaser or transferee as is indicated in subdivision (b) of
36 Section 12077.

37 (o) Sections 12071, 12071.1, 12071.2, 12071.3, 12071.5 and
38 subdivisions (c) and (d) of Section 12072 shall not apply to the
39 delivery, sale, or transfer of firearms regulated pursuant to
40 Section 12020, Chapter 2 (commencing with Section 12200), or

Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not

1 limited to, competitive shooting, or agricultural, ranching, or
2 hunting activity, or a motion picture, television, or video
3 production, or entertainment or theatrical event, the nature of
4 which involves the use of a firearm.

5 (B) The duration of the loan does not exceed the amount of
6 time that is reasonably necessary to engage in the lawful,
7 recreational sport, including, but not limited to, competitive
8 shooting, or agricultural, ranching, or hunting activity, or a
9 motion picture, television, or video production, or entertainment
10 or theatrical event, the nature of which involves the use of a
11 firearm.

12 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
13 Section 12072 shall not apply to the transfer or loan of a firearm
14 that is not a handgun to a minor by his or her parent or legal
15 guardian.

16 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
17 Section 12072 shall not apply to the transfer or loan of a firearm
18 that is not a handgun to a minor by his or her grandparent who is
19 not the legal guardian of the minor if the transfer is done with the
20 express permission of the parent or legal guardian of the minor.

21 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
22 Section 12072 shall not apply to the sale of a handgun if both of
23 the following requirements are satisfied:

24 (A) The sale is to a person who is at least 18 years of age.

25 (B) The firearm is an antique firearm as defined in paragraph
26 (16) of subsection (a) of Section 921 of Title 18 of the United
27 States Code.

28 (q) Subdivision (d) of Section 12072 shall not apply to the
29 loan of a firearm that is not a handgun to a licensed hunter for
30 use by that licensed hunter for a period of time not to exceed the
31 duration of the hunting season for which that firearm is to be
32 used.

33 (r) The waiting period described in Section 12071.2 or 12072
34 shall not apply to the delivery, sale, or transfer of a firearm to the
35 holder of a special weapons permit issued by the Department of
36 Justice issued pursuant to Section 12095, 12230, 12250, or
37 12305. On the date that the application to purchase is completed,
38 the dealer delivering the firearm shall transmit to the Department
39 of Justice an electronic or telephonic report of the same as is
40 indicated in subdivision (b) or (c) of Section 12077.

(s) (1) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the infrequent loan of an unloaded firearm by a person who is neither a dealer as defined in Section 12071 nor a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person 18 years of age or older for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(2) Subdivision (d), and paragraph (1) of subdivision (f), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a person who is not a dealer as defined in Section 12071 but who is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The person loaning the firearm pursuant to this paragraph shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(3) Sections 12071, 12071.1, 12071.2, 12071.3, 12071.5, subdivision (c) of, and paragraph (1) of subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a dealer as defined in Section 12071, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(t) (1) The waiting period described in Section 12071.2 or 12072 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering

1 the firearm shall transmit to the Department of Justice an
2 electronic or telephonic report of the transaction as is indicated in
3 subdivision (b) or (c) of Section 12077.

4 (2) Subdivision (d) of Section 12072 shall not apply to the
5 infrequent sale, loan, or transfer of a firearm that is not a
6 handgun, which is a curio or relic manufactured at least 50 years
7 prior to the current date, but not including replicas thereof, as
8 defined in Section 478.11 of Title 27 of the Code of Federal
9 Regulations, or its successor.

10 ~~(u) (1) Subdivision (b) of Section 12801 and subdivision (d)~~
11 ~~of Section 12072 shall not apply to the delivery or transfer of a~~
12 ~~firearm by a security company to an authorized representative of~~
13 ~~a branch of that company located within this state that is~~
14 ~~authorized to employ persons described in subdivision (d) of~~
15 ~~Section 12031 in a capacity to allow those persons to carry~~
16 ~~firearms. The entity receiving the firearm shall, within five days,~~
17 ~~forward by prepaid mail or deliver in person to the department, a~~
18 ~~report of information concerning the individual taking possession~~
19 ~~of each firearm, how title or possession was obtained, and when,~~
20 ~~and a description of each firearm. The reports that individuals~~
21 ~~complete pursuant to this paragraph shall be in a format~~
22 ~~prescribed by the department.~~

23 ~~(2) Subdivision (d) of Section 12072 and subdivision (b) of~~
24 ~~Section 12801 shall not apply to the loan of a firearm by a~~
25 ~~security company, or to an authorized representative of a branch~~
26 ~~of that company located within this state, to an authorized~~
27 ~~employee thereof who is authorized to carry a firearm in~~
28 ~~accordance with subdivision (d) of Section 12031 in the course~~
29 ~~and scope of employment, if the firearm is loaned to the~~
30 ~~authorized employee to carry in the course and scope of~~
31 ~~employment. The entity receiving the firearm shall, within five~~
32 ~~days, forward by prepaid mail or deliver in person to the~~
33 ~~department, a report of information concerning the individual~~
34 ~~taking possession of each firearm, how title or possession was~~
35 ~~obtained, and when, and a description of each firearm. The~~
36 ~~reports that individuals complete pursuant to this paragraph shall~~
37 ~~be in a format described by the department.~~

38 ~~(v)~~

39 ~~(u)~~ As used in this section:

1 (1) “Infrequent” has the same meaning as in paragraph (1) of
2 subdivision (c) of Section 12070.

3 (2) “A person taking title or possession of firearms by
4 operation of law” includes, but is not limited to, any of the
5 following instances wherein an individual receives title to, or
6 possession of, firearms:

7 (A) The executor or administrator of an estate if the estate
8 includes firearms.

9 (B) A secured creditor or an agent or employee thereof when
10 the firearms are possessed as collateral for, or as a result of, a
11 default under a security agreement under the Commercial Code.

12 (C) A levying officer, as defined in Section 481.140, 511.060,
13 or 680.260 of the Code of Civil Procedure.

14 (D) A receiver performing his or her functions as a receiver if
15 the receivership estate includes firearms.

16 (E) A trustee in bankruptcy performing his or her duties if the
17 bankruptcy estate includes firearms.

18 (F) An assignee for the benefit of creditors performing his or
19 her functions as an assignee, if the assignment includes firearms.

20 (G) A transmutation of property consisting of firearms
21 pursuant to Section 850 of the Family Code.

22 (H) Firearms passing to a surviving spouse pursuant to
23 Chapter 1 (commencing with Section 13500) of Part 2 of
24 Division 8 of the Probate Code.

25 (I) Firearms received by the family of a police officer or
26 deputy sheriff from a local agency pursuant to Section 50081 of
27 the Government Code.

28 (J) The transfer of a firearm by a law enforcement agency to
29 the person who found the firearm where the delivery is to the
30 person as the finder of the firearm pursuant to Article 1
31 (commencing with Section 2080) of Chapter 4 of Division 3 of
32 the Civil Code.

33 SEC. 29. Section 12082 of the Penal Code is amended to
34 read:

35 12082. (a) A person shall complete any sale, loan, or transfer
36 of a firearm through a person licensed pursuant to Section 12071
37 in accordance with this section in order to comply with
38 subdivision (d) of Section 12072. The seller or transferor or the
39 person loaning the firearm shall deliver the firearm to the dealer
40 who shall retain possession of that firearm. The dealer shall then

1 deliver the firearm to the purchaser or transferee or the person
2 being loaned the firearm, if it is not prohibited, in accordance
3 with subdivision (c) of Section 12072. If the dealer cannot legally
4 deliver the firearm to the purchaser or transferee or the person
5 being loaned the firearm, the dealer shall forthwith, without
6 waiting for the conclusion of the waiting period described in
7 Sections 12071.2 and 12072, return the firearm to the transferor
8 or seller or the person loaning the firearm. The dealer shall not
9 return the firearm to the seller or transferor or the person loaning
10 the firearm when to do so would constitute a violation of
11 subdivision (a) of Section 12072. If the dealer cannot legally
12 return the firearm to the transferor or seller or the person loaning
13 the firearm, then the dealer shall forthwith deliver the firearm to
14 the sheriff of the county or the chief of police or other head of a
15 municipal police department of any city or city and county who
16 shall then dispose of the firearm in the manner provided by
17 Sections 12028 and 12032. The purchaser or transferee or person
18 being loaned the firearm may be required by the dealer to pay a
19 fee not to exceed ten dollars (\$10) per firearm, and no other fee
20 may be charged by the dealer for a sale, loan, or transfer of a
21 firearm conducted pursuant to this section, except for the
22 applicable fees that may be charged pursuant to Sections 12076,
23 12076.5, and 12088.9 and forwarded to the Department of
24 Justice, and the fees set forth in Section 12805. Nothing in these
25 provisions shall prevent a dealer from charging a smaller fee. The
26 dealer may not charge any additional fees.

27 (b) The Attorney General shall adopt regulations under this
28 section to do all of the following:

29 (1) Allow the seller or transferor of the person loaning the
30 firearm, and the purchaser or transferee or the person being
31 loaned the firearm, to complete a sale, loan, or transfer through a
32 dealer, and to allow those persons and the dealer to comply with
33 the requirements of this section and Sections 12071, 12071.1,
34 12071.2, 12071.3, 12071.5, 12072, 12076, and 12077 and to
35 preserve the confidentiality of those records.

36 (2) Where a personal handgun importer is selling or
37 transferring a pistol, revolver, or other firearm capable of being
38 concealed upon the person to comply with clause (ii) of
39 subparagraph (A) of paragraph (2) of subdivision (f) of Section
40 12072, to allow a personal handgun importer's ownership of the

1 pistol, revolver, or other firearm capable of being concealed upon
2 the person being sold or transferred to be recorded in a manner
3 that if the firearm is returned to that personal handgun importer
4 because the sale or transfer cannot be completed, the Department
5 of Justice will have sufficient information about that personal
6 handgun importer so that a record of his or her ownership can be
7 maintained in the registry provided by subdivision (c) of Section
8 11106.

9 (3) Ensure that the register or record of electronic transfer
10 shall state the name and address of the seller or transferor of the
11 firearm or the person loaning the firearm and whether or not the
12 person is a personal handgun importer in addition to any other
13 information required by Section 12077.

14 (c) Notwithstanding any other provision of law, a dealer who
15 does not sell, transfer, or keep an inventory of handguns is not
16 required to process private party transfers of handguns.

17 (d) A violation of this section by a dealer is a misdemeanor.

18 SEC. 30. Section 12084 of the Penal Code is repealed.

19 SEC. 31. Section 12086 of the Penal Code is amended to
20 read:

21 12086. (a) (1) As used in this section, “licensee” means a
22 person, firm, or corporation that satisfies both of the following:

23 (A) Has a license issued pursuant to paragraph (2) of
24 subdivision (b).

25 (B) Is among those recorded in the centralized list specified in
26 subdivision (f).

27 (2) As used in this section, “department” means the
28 Department of Justice.

29 (b) (1) The Department of Justice shall accept applications
30 for, and shall grant licenses permitting, the manufacture of
31 firearms within this state. The department shall inform applicants
32 who are denied licenses of the reasons for the denial in writing.

33 (2) No license shall be granted by the department unless and
34 until the applicant presents proof that he or she has all of the
35 following:

36 (A) A valid license to manufacture firearms issued pursuant to
37 Chapter 44 (commencing with Section 921) of Title 18 of the
38 United States Code.

39 (B) Any regulatory or business license, or licenses, required
40 by local government.

1 (C) A valid seller's permit or resale certificate issued by the
2 State Board of Equalization, if applicable.

3 (D) A certificate of eligibility issued by the Department of
4 Justice pursuant to Section 12071.

5 (3) The department shall adopt regulations to administer this
6 section and Section 12085 and shall recover the full costs of
7 administering the program by collecting fees from license
8 applicants. Recoverable costs shall include, but not be limited to,
9 the costs of inspections and maintaining a centralized list of
10 licensed firearm manufacturers. The fee for licensed
11 manufacturers who produce fewer than 500 firearms in a
12 calendar year within this state shall not exceed two hundred fifty
13 dollars (\$250) per year or the actual costs of inspections and
14 maintaining a centralized list of firearm manufacturers and any
15 other duties of the department required pursuant to this section
16 and Section 12085, whichever is less.

17 (4) A license granted by the department shall be valid for no
18 more than one year from the date of issuance and shall be in the
19 form prescribed by the Attorney General.

20 (c) A licensee shall comply with the following prohibitions
21 and requirements:

22 (1) The business shall be conducted only in the buildings
23 designated in the license.

24 (2) The license or a copy thereof, certified by the department,
25 shall be displayed on the premises where it can easily be seen.

26 (3) Whenever a licensee discovers that a firearm has been
27 stolen or is missing from the licensee's premises, the licensee
28 shall report the loss or theft within 48 hours of the discovery to
29 all of the following:

30 (A) The Department of Justice, in a manner prescribed by the
31 department.

32 (B) The federal Bureau of Alcohol, Tobacco, and Firearms.

33 (C) The police department in the city or city and county where
34 the building designated in the license is located.

35 (D) If there is no police department in the city or city and
36 county where the building designated in the license is located, the
37 sheriff of the county where the building designated in the license
38 is located.

39 (4) (A) The licensee shall require that each employee obtain a
40 certificate of eligibility pursuant to Section 12071, which shall be

1 renewed annually, prior to being allowed to come into contact
2 with any firearm.

3 (B) The licensee shall prohibit any employee who the licensee
4 knows or reasonably should know is within a class of persons
5 prohibited from possessing firearms pursuant to Section 12021 or
6 12021.1 of this code, or Section 8100 or 8103 of the Welfare and
7 Institutions Code, from coming into contact with any firearm.

8 (5) (A) Each firearm the licensee manufactures in this state
9 shall be identified with a unique serial number stamped onto the
10 firearm utilizing the method of compression stamping.

11 (B) Licensed manufacturers who produce fewer than 500
12 firearms in a calendar year within this state may serialize long
13 guns only by utilizing a method of compression stamping or by
14 engraving the serial number onto the firearm.

15 (C) The licensee shall stamp the serial number onto the
16 firearm within one business day of the time the receiver or frame
17 is manufactured.

18 (D) The licensee shall not use the same serial number for more
19 than one firearm.

20 (6) (A) The licensee shall record the type, model, caliber, or
21 gauge, and serial number of each firearm manufactured or
22 acquired, and the date of the manufacture or acquisition, within
23 one business day of the manufacture or acquisition.

24 (B) The licensee shall maintain permanently within the
25 building designated in the license the records required pursuant
26 to subparagraph (A).

27 (C) Backup copies of the records described in subparagraph
28 (A), whether electronic or hard copy, shall be made at least once
29 a month. These backup records shall be maintained in a facility
30 separate from the one in which the primary records are stored.

31 (7) (A) The licensee shall allow the department to inspect the
32 building designated in the license to ensure compliance with the
33 requirements of this section.

34 (B) The licensee shall allow any peace officer, authorized law
35 enforcement employee, or Department of Justice employee
36 designated by the Attorney General, upon the presentation of
37 proper identification, to inspect facilities and records during
38 business hours to ensure compliance with the requirements of
39 this section.

1 (8) The licensee shall store in a secure facility all firearms
2 manufactured and all barrels for firearms manufactured.

3 (9) (A) The licensee shall notify the chief of police or other
4 head of the municipal police department in the city or city and
5 county where the building designated in the license is located
6 that the licensee is manufacturing firearms within that city or city
7 and county and the location of the licensed premises.

8 (B) If there is no police department in the city or city and
9 county where the building designated in the license is located, the
10 licensee shall notify the sheriff of the county where the building
11 designated in the license is located that the licensee is
12 manufacturing firearms within that county and the location of the
13 licensed premises.

14 (10) For at least 10 years, the licensee shall maintain records
15 of all firearms that are lost or stolen, as prescribed by the
16 department.

17 (d) Except as otherwise provided in subdivision (e), as used in
18 this section, a “secure facility” means that the facility satisfies all
19 of the following:

20 (1) The facility is equipped with a burglar alarm with central
21 monitoring.

22 (2) All perimeter entries to areas in which firearms are stored
23 other than doors, including windows and skylights, are secured
24 with steel window guards or an audible, silent, or sonic alarm to
25 detect entry.

26 (3) All perimeter doorways are designed in one of the
27 following ways:

28 (A) A windowless steel security door equipped with both a
29 deadbolt and a doorknob lock.

30 (B) A windowed metal door equipped with both a deadbolt
31 and a doorknob lock. If the window has an opening of five inches
32 or more measured in any direction, the window is covered with
33 steel bars of at least one-half inch diameter or metal grating of at
34 least nine gauge affixed to the exterior or interior of the door.

35 (C) A metal grate that is padlocked and affixed to the
36 licensee’s premises independent of the door and doorframe.

37 (D) Hinges and hasps attached to doors by welding, riveting,
38 or bolting with nuts on the inside of the door.

39 (E) Hinges and hasps installed so that they cannot be removed
40 when the doors are closed and locked.

1 (4) Heating, ventilating, air-conditioning, and service openings
2 are secured with steel bars, metal grating, or an alarm system.

3 (5) No perimeter metal grates are capable of being entered by
4 any person.

5 (6) Steel bars used to satisfy the requirements of this
6 subdivision are not capable of being entered by any person.

7 (7) Perimeter walls of rooms in which firearms are stored are
8 constructed of concrete or at least 10-gauge expanded steel wire
9 mesh utilized along with typical wood frame and drywall
10 construction. If firearms are not stored in a vault, the facility shall
11 use an exterior security-type door along with a high security,
12 single-key deadbolt, or other door that is more secure. All
13 firearms shall be stored in a separate room away from any
14 general living area or work area. Any door to the storage facility
15 shall be locked while unattended.

16 (8) Perimeter doorways, including the loading dock area, are
17 locked at all times when not attended by paid employees or
18 contracted employees, including security guards.

19 (9) Except when a firearm is currently being tested, any
20 ammunition on the premises is removed from all manufactured
21 guns and stored in a separate and locked room, cabinet, or box
22 away from the storage area for the firearms. Ammunition may be
23 stored with a weapon only in a locked safe.

24 (e) For purposes of this section, any licensed manufacturer
25 who produces fewer than 500 firearms in a calendar year within
26 this state may maintain a "secure facility" by complying with all
27 of the requirements described in subdivision (d), or may design a
28 security plan that is approved by the Department of Justice or the
29 federal Bureau of Alcohol, Tobacco, and Firearms.

30 (1) If a security plan is approved by the federal Bureau of
31 Alcohol, Tobacco, and Firearms, the approved plan, along with
32 proof of approval, shall be filed with the Department of Justice
33 and the local police department. If there is no police department,
34 the filing shall be with the county sheriff's office.

35 (2) If a security plan is approved by the Department of Justice,
36 the approved plan, along with proof of approval, shall be filed
37 with the local police department. If there is no police department,
38 the filing shall be with the county sheriff's office.

39 (f) (1) Except as otherwise provided in this subdivision, the
40 Department of Justice shall maintain a centralized list of all

1 persons licensed pursuant to paragraph (2) of subdivision (b).
2 The centralized list shall be provided annually to each police
3 department and county sheriff within the state.

4 (2) Except as provided in paragraph (3), the license of any
5 licensee who violates this section may be revoked.

6 (3) The license of any licensee who knowingly or with gross
7 negligence violates this section or violates this section three
8 times shall be revoked, and that person, firm, or corporation shall
9 become permanently ineligible to obtain a license pursuant to this
10 section.

11 (g) (1) Upon the revocation of the license, notification shall
12 be provided to local law enforcement authorities in the
13 jurisdiction where the licensee's business is located and to the
14 federal Bureau of Alcohol, Tobacco, and Firearms.

15 (2) The department shall make information concerning the
16 location and name of a licensee available, upon request, for the
17 following purposes only:

18 (A) Law enforcement.

19 (B) When the information is requested by a person licensed
20 pursuant to Chapter 44 (commencing with Section 921) of Title
21 18 of the United States Code for determining the validity of the
22 license for firearm shipments.

23 (3) Notwithstanding paragraph (2), the department shall make
24 the name and business address of a licensee available to any
25 person upon written request.

26 (h) The Department of Justice shall maintain and make
27 available upon request information concerning the number of
28 inspections conducted and the amount of fees collected pursuant
29 to paragraph (3) of subdivision (b), the number of licensees
30 removed from the centralized list described in subdivision (f),
31 and the number of licensees found to have violated this section.

32 SEC. 32. Section 12131 of the Penal Code, as amended by
33 Section 4 of Chapter 912 of the Statutes of 2002, is amended to
34 read:

35 12131. (a) On and after January 1, 2001, the Department of
36 Justice shall compile, publish, and thereafter maintain a roster
37 listing all of the pistols, revolvers, and other firearms capable of
38 being concealed upon the person that have been tested by a
39 certified testing laboratory, have been determined not to be
40 unsafe handguns, and may be sold in this state pursuant to this

1 title. The roster shall list, for each firearm, the manufacturer,
2 model number, and model name.

3 (b) (1) The department may charge every person in this state
4 who is licensed as a manufacturer of firearms pursuant to
5 Chapter 44 (commencing with Section 921) of Title 18 of the
6 United States Code, and any person in this state who
7 manufactures or causes to be manufactured, imports into the state
8 for sale, keeps for sale, or offers or exposes for sale any pistol,
9 revolver, or other firearm capable of being concealed upon the
10 person in this state, an annual fee not exceeding the costs of
11 preparing, publishing, and maintaining the roster pursuant to
12 subdivision (a) and the costs of research and development, report
13 analysis, firearms storage, and other program infrastructure costs
14 necessary to implement this chapter.

15 (2) Any pistol, revolver, or other firearm capable of being
16 concealed upon the person that is manufactured by a
17 manufacturer who manufactures or causes to be manufactured,
18 imports into the state for sale, keeps for sale, or offers or exposes
19 for sale any pistol, revolver, or other firearm capable of being
20 concealed upon the person in this state, and who fails to pay any
21 fee required pursuant to paragraph (1), may be excluded from the
22 roster.

23 (c) The Attorney General may annually retest up to 5 percent
24 of the handgun models that are listed on the roster described in
25 subdivision (a).

26 (d) The retesting of a handgun model pursuant to subdivision
27 (c) shall conform to the following:

28 (1) The Attorney General shall obtain from retail or wholesale
29 sources, or both, three samples of the handgun model to be
30 retested.

31 (2) The Attorney General shall select the certified laboratory
32 to be used for the retesting.

33 (3) The ammunition used for the retesting shall be of a type
34 recommended by the manufacturer in the user manual for the
35 handgun. If the user manual for the handgun model makes no
36 ammunition recommendation, the Attorney General shall select
37 the ammunition to be used for the retesting. The ammunition
38 shall be of the proper caliber for the handgun, commercially
39 available, and in new condition.

1 (e) The retest shall be conducted in the same manner as the
2 testing prescribed in Sections 12127 and 12128.

3 (f) If the handgun model fails retesting, the Attorney General
4 shall remove the handgun model from the roster maintained
5 pursuant to subdivision (a).

6 (g) A handgun model removed from the roster pursuant to
7 subdivision (f) may be reinstated on the roster if all of the
8 following are met:

9 (1) The manufacturer petitions the Attorney General for
10 reinstatement of the handgun model.

11 (2) The manufacturer pays the Department of Justice for all of
12 the costs related to the reinstatement testing of the handgun
13 model, including the purchase price of the handguns, prior to
14 reinstatement testing.

15 (3) The reinstatement testing of the handguns shall be in
16 accordance with subdivisions (d) and (e).

17 (4) The three handgun samples shall be tested only once for
18 reinstatement. If the sample fails it may not be retested.

19 (5) The handgun has never failed reinstatement testing.

20 (6) The testing laboratory and firearm manufacturer shall
21 provide the Attorney General with the complete testing history of
22 the handgun model.

23 (h) If the handgun model successfully passes testing for
24 reinstatement, and if the manufacturer of the handgun is
25 otherwise in compliance with this chapter, the Attorney General
26 shall reinstate the handgun model on the roster maintained
27 pursuant to subdivision (a).

28 (i) Notwithstanding subdivision (c), the Attorney General
29 may, at any time, further retest any handgun model that has been
30 reinstated to the roster.

31 SEC. 33. Section 12132 of the Penal Code is amended to
32 read:

33 12132. This chapter shall not apply to any of the following:

34 (a) The sale, loan, or transfer of any firearm pursuant to
35 Section 12082 in order to comply with subdivision (d) of Section
36 12072.

37 (b) The sale, loan, or transfer of any firearm that is exempt
38 from the provisions of subdivision (d) of Section 12072 pursuant
39 to any applicable exemption contained in Section 12078, if the

1 sale, loan, or transfer complies with the requirements of that
2 applicable exemption to subdivision (d) of Section 12072.

3 (c) The sale, loan, or transfer of any firearm as described in
4 paragraph (3) of subdivision (b) of Section 12125.

5 (d) The delivery of a pistol, revolver, or other firearm capable
6 of being concealed upon the person to a person licensed pursuant
7 to Section 12071 for the purposes of the service or repair of that
8 firearm.

9 (e) The return of a pistol, revolver, or other firearm capable of
10 being concealed upon the person by a person licensed pursuant to
11 Section 12071 to its owner where that firearm was initially
12 delivered in the circumstance set forth in subdivision (d).

13 (f) The return of a pistol, revolver, or other firearm capable of
14 being concealed upon the person by a person licensed pursuant to
15 Section 12071 to its owner where that firearm was initially
16 delivered to that licensee for the purpose of a consignment sale or
17 as collateral for a pawnbroker loan.

18 (g) The sale, loan, or transfer of any pistol, revolver, or other
19 firearm capable of being concealed upon the person listed as a
20 curio or relic, as defined in Section 178.11 of the Code of Federal
21 Regulations.

22 (h) (1) The Legislature finds a significant public purpose in
23 exempting pistols that are designed expressly for use in Olympic
24 target shooting events. Therefore, those pistols that are
25 sanctioned by the International Olympic Committee and by USA
26 Shooting, the national governing body for international shooting
27 competition in the United States, and that are used for Olympic
28 target shooting purposes at the time that the act adding this
29 subdivision is enacted, and that fall within the definition of
30 “unsafe handgun” pursuant to paragraph (3) of subdivision (b) of
31 Section 12126 shall be exempt, as provided in paragraphs (2) and
32 (3).

33 (2) This chapter shall not apply to any of the following pistols,
34 because they are consistent with the significant public purpose
35 expressed in paragraph (1):

1	MANUFACTURER	MODEL	CALIBER
2	ANSCHUTZ	FP	.22LR
3	BENELLI	MP90	.22LR
4	BENELLI	MP90	.32 S&W LONG
5	BENELLI	MP95	.22LR
6	BENELLI	MP95	.32 S&W LONG
7	DRULOV	FP	.22LR
8	GREEN	ELECTROARM	.22LR
9	HAMMERLI	100	.22LR
10	HAMMERLI	101	.22LR
11	HAMMERLI	102	.22LR
12	HAMMERLI	162	.22LR
13	HAMMERLI	280	.22LR
14	HAMMERLI	280	.32 S&W LONG
15	HAMMERLI	FP10	.22LR
16	HAMMERLI	MP33	.22LR
17	HAMMERLI	SP20	.22LR
18	HAMMERLI	SP20	.32 S&W LONG
19	MORINI	CM102E	.22LR
20	MORINI	22M	.22LR
21	MORINI	32M	.32 S&W LONG
22	MORINI	CM80	.22LR
23	PARDINI	GP	.22 SHORT
24	PARDINI	GPO	.22 SHORT
25	PARDINI	GP-SCHUMANN	.22 SHORT
26	PARDINI	HP	.32 S&W LONG
27	PARDINI	K22	.22LR
28	PARDINI	MP	.32 S&W LONG
29	PARDINI	PGP75	.22LR
30	PARDINI	SP	.22LR
31	PARDINI	SPE	.22LR
32	SAKO	FINMASTER	.22LR
33	STEYR	FP	.22LR
34	VOSTOK	IZH NO. 1	.22LR
35	VOSTOK	MU55	.22LR
36	VOSTOK	TOZ35	.22LR
37	WALTHER	FP	.22LR
38	WALTHER	GSP	.22LR
39	WALTHER	GSP	.32 S&W LONG
40	WALTHER	OSP	.22 SHORT

WALTHER OSP-2000 .22 SHORT

(3) The department shall create a program that is consistent with the purpose stated in paragraph (1) to exempt new models of competitive firearms from this chapter. The exempt competitive firearms may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

(i) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely as a prop during the course of a motion picture, television, or video production by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

SEC. 34. Section 12305 of the Penal Code is amended to read:

12305. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess or transport any destructive device. No permit shall be issued to any person who meets any of the following criteria:

(1) Has been convicted of any felony.

(2) Is addicted to the use of any narcotic drug.

(3) Is a person in a class prohibited by Section 8100 or 8103 of the Welfare and Institutions Code or Section 12021 or 12021.1 of this code.

(c) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

(d) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

(e) Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient in amount to cover processing costs, the amount of the fees shall only increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department.

(f) Except as provided in subdivision (g), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of destructive devices.

(g) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

SEC. 35. Section 26 of Chapter 23 of the Statutes of 1994 is amended to read:

Sec. 26. The Legislature declares the following to be the public policy of this state:

(a) No person who buys or is transferred or is loaned a firearm that was conducted through a person acting under Section 12082 of the Penal Code shall incur any civil liability for any illicit use or possession of the firearm prior to his or her taking possession of the firearm if the person had no knowledge of that conduct.

(b) No person holding a license under Section 12071 of the Penal Code when delivering firearms pursuant to Section 12082 of the Penal Code shall assume any civil liability beyond that existing at the time of the effective date of this section when the person sells or transfers or loans any firearms out of his or her own stock, if that person otherwise complies with Section 12082 of the Penal Code. No person acting as a dealer pursuant to Section 12071 of the Penal Code who is delivering firearms for third parties pursuant to Section 12082 of the Penal Code, and

1 the firearms are not out of his or her own stock, shall assume any
2 civil liability for any defects in those firearms unless he or she
3 has actual knowledge of the defect.

4 (c) No person who transfers, sells, or loans a firearm through a
5 dealer licensed pursuant to Section 12071 of the Penal Code in
6 accordance with Section 12082 of the Penal Code and who
7 otherwise complies with Article 3 (commencing with Section
8 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code shall
9 incur any civil liability for subsequent misuse of the firearm by
10 the purchaser, transferee, or person being loaned that firearm if
11 he or she had no knowledge of the misuse prior to the transfer,
12 sale, or loan.

13 (d) The declarations contained in this section are declaratory
14 of existing law.

15 SEC. 36. If the Commission on State Mandates determines
16 that this act contains costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be
18 made pursuant to Part 7 (commencing with Section 17500) of
19 Division 4 of Title 2 of the Government Code.